

# Memorandum

**To: Board Members**

**Date: October 10, 2004**

**From: Organizational Development Committee**

**Subject: Report on the Public Meeting of September 21, 2004**

The Organizational Development Committee met on September 21, 2004, in a public meeting. Minutes of this meeting are provided in this tab section as Attachment A (following the numbered attachments referenced below).

## For Information Only

### **Item 1: Discussion: How Can the Board of Pharmacy Improve and Facilitate Communication with the Public and Licensees**

At the board's July Meeting, Board President Goldenberg stated that one of the priorities for his term is to improve the communication of the board with its licensees and with the public. His goal is to obtain diverse opinions from as wide a cross section as possible on matters before the board for policy deliberations. To this end, each of the board's committees was directed to hold a public meeting before the October board meeting with this topic listed as a discussion item.

During this portion of the board meeting, the board will discuss what additional methods the board can implement to assure a wide cross section of stakeholders are present to provide comments during board deliberations on policy initiatives.

Attachment 1 provides a list of many of the methods the board currently uses to elicit comments from its stakeholders.

Ideas developed during the Organizational Development Committee meeting included:

- inviting local chapters of pharmacist associations to encourage their members to attend meetings in their area

- working with the schools of pharmacy to foster attendance by pharmacy students
- awarding local pharmacists board acknowledgments for significant achievements or for years of service
- notifying other agencies, such as the local Area Agency on Aging, AARP, Senior Outreach, Kiwanis and Rotary organizations about meetings in their communities

President Goldenberg has pursued some of these ideas for this meeting in hopes of securing greater attendance by a more diverse audience.

Also, the Organizational Development Committee noted that scheduling controversial topics for discussion would likely increase the interest in attending meetings by individuals who are otherwise busy. Sometimes issues on the agenda generate attendance; for example, the board has good participation of its stakeholders in the Workgroup on Compounding Meetings.

## **Item 2: Discussion: California Performance Review – A Proposal to Restructure State Government and its Proposal for the Board of Pharmacy**

The Governor's proposal to restructure state government was released at the beginning of August. His plan is detailed in a 2,547-page report, developed by the California Performance Review, a group of 275 "specially appointed state employees, administrative officials and outside consultants" that was charged to overhaul state government into a more logical and less costly organization. The CPR states that its reorganization will achieve \$32 billion in savings over five years.

Eight public hearings have been held to collect information from the public. The restructuring plan would eliminate 118 of 339 boards and commissions, as well as the Department of Consumer Affairs. The healing arts licensing boards of the department would be merged into a new Department of Health and Human Services, this includes the Board of Pharmacy. Most other regulatory boards in the department today have been targeted for elimination. The board's fund would be combined with the special funds of other boards merged into the new department.

Attachment 2 contains background information on the CPR that was reviewed by the Organizational Development Committee.

The committee discussed whether it should prepare comments to submit to the commission or Governor on this restructuring plan. The committee decided it was premature at this time to submit comments until a more definitive plan or timeline is in place.

### **Item 3: Budget Update and Report:**

#### **1. 2004/05 and Future Year Budgets**

The state's budget for this fiscal year was approved by the Governor on July 31. The state's fiscal year runs from July 1, 2004 through June 30, 2005.

The board's budget is essentially the same as it was last fiscal year with the exception of funding for the AG, which was increased due to the increased hourly fee charges.

- ***Revenue Projected: \$5,444,287***

The board's revenue for the year is projected to be comprised of \$5,346,813 in licensing fees (98.2 percent) and \$97,474 in interest (1.8 percent). The revenue estimate projected from fees is conservative and traditionally is about 10 percent less than actual revenue will be. Not included in this figure is any money collected from cost recovery or citations and fines.

- ***Expenditures Projected: \$7,360,000***

The board's maximum expenditure authority for the year is \$7.36 million. Personnel is the largest expenditure: \$3,686,301 or 50 percent of the board's budget.

- ***Redirections and Program Efficiencies to Offset Budget and Staffing Shortages***

At the beginning of each month, the board submits a backlog report to the administration. This report reflects the status of the board's licensing and enforcement activities with respect to processing times. The board's priorities are to investigate consumer complaints and process applications.

One of the greatest hurdles the board faces is responding to telephone inquiries. The board lacks even one full-time receptionist (both of the receptionist positions we had were lost due to budget restrictions and hiring freezes). The one part-time individual we have performs this function but works at most only three days weekly. As a result, all staff are assigned to take turns at answering the telephones. Status inquiries are not a priority and callers seeking assistance to be walked through the application process are directed to the Web site instead. This is extremely frustrating to applicants and to staff.

In early October the board implemented a subscriber e-mail system that will allow interested parties to list their e-mail address with the board, and then be notified of new items posted on the board's Web site, which they can then

review. This system has the potential to increase communication with licensees and others at virtually no cost to the board. Someday it could eliminate publishing and postage costs for newsletters and *Health Notes*. It will allow the board to advise licensees of new law changes, new regulations, product recalls, and even action items from board meetings. The board is the first entity in the department to use this service, although others will soon implement their own systems.

- ***Attorney General's Office Hourly Rates Increase***

The Attorney General's Office rates increased twice at the end of the last fiscal year (April 1 and after June 30) to a total of \$139 per hour for attorneys and \$91 for legal assistants. This year the board received an augmentation in its AG budget of \$216,034, to accommodate this rate increase. The board's total budget for the AG this year is \$996,839 (or 13.5 percent of the board's budget).

### ***3. Closure Report: Budget Year 2003/04***

- ***Actual Revenue Collected: \$6,892,789***

The board's revenue for last year was comprised of \$5,641,127 in licensing fees, \$70,306 in interest income, \$874,532 in citation revenue, and \$172,349 in cost recovery. Attachment 3 contains various graphic displays of the origin revenue for the year.

Chart 1 displays all revenue collected during the year by category.

Chart 2 displays the breakout of fees collected by renewal fees (73 percent) and application fees (27 percent).

Chart 3 displays the licensing fees collected by each program type. Pharmacists generate 37 percent of fee revenue, pharmacies generate about 25 percent of fee revenue, and pharmacy technicians generate nearly 20 percent of fee revenue.

- ***Expenditures for 2003/04 -- \$6,816,770***

Attachment 4 provides graphic displays of board expenditures for the last fiscal year. Expenditures for staff salaries and benefits are not broken out by program category, but instead are reported simply in the aggregate as "personnel services."

The board's largest expenditure was for personnel services (54 percent of all expenditures), which actually exceeded the budgeted amount by \$30,580. This is even more significant since salary expenditures were not made for



several inspectors and two managers during part or all of the year who were on parental leave. As a fixed expense, personnel services expenses are tracked closely by staff.

Postage has been under-funded in prior years. During 2003/04 to reduce this expense, the board stopped mailing applications and newsletters to pharmacists. Despite these steps, the board still spent nearly \$19,000 more in postage than budgeted (30 percent more).

Fortunately, the board did not spend all of its budgeted amounts in other programs areas (notably printing), which compensates for the over-expenditures in other categories.

#### **4. *Board Fund Condition***

Attachment 5 contains the most recent status report on the board's fund condition.

During 2004/05, the board is projected to spend \$1,915,713 more than it will collect in revenue. Any difference between revenue and expenditures will come from the board's fund. Because the board is spending more than it collects in revenue, the board's fund projects a declining balance over the next three years.

- 2004-05: The board is projected to end this fiscal year with a reserve of 4.7 months of expenditures
- 2005-06: The reserve decreases to 1.3 months at the end of the year (June 30, 2006)
- 2006-07: A deficit of 2.3 months is projected (June 30, 2007)

These figures indicate that repayment of the \$6 million loan borrowed by the state during 2002/03 will need to begin during mid to late 2005-06.

Note: last year (2003/04), the board spent only slightly less than it made in revenue (specifically \$76,000 less). However, the board collected more than \$1 million in fines and cost recovery last year, and spent \$350,000 less than authorized.

#### **5. *Board Member Reimbursement and Travel***

Attachment 6 displays board expenditures for board member reimbursement and travel for the current and prior fiscal years.

#### **6. *Relocation of the Department of Consumer Affairs***

The lease for the building housing the main portion of the Department of Consumer Affairs, including the Sacramento office of this board, will end late in 2004.

Lease negotiations have not reduced the rent desired by the current building's landlord, and the department is likely to move to a new location in South Natomas (the original Arco Arena), where the rent is less. This location is about 8 miles north of our current location. If these arrangements are finalized, the board will have to move sometime during 2005. No lease has yet been signed for any space. However, the new building's owner has promised to pay for the purchase and installation of new systems furniture as well as utilities and janitorial service.

## **ITEM 4: Personnel Update and Report**

### ***1. Hiring Freeze Ends***

The hiring freeze in place since late 2001 expired July 1, 2004.

Recent budget instructions from the Department of Finance (released in what is known as a "Budget Letter") seeming would have allowed the board to reinstate four positions lost during July 2002-03, when there was a hiring freeze and the board could not fill positions. However, the Department of Finance has narrowly interpreted this policy and advised the board that it cannot restore positions the board lost before 2003/04.

### ***2. Personnel Actions***

The board has promoted three board employees, and converted a fourth individual to a 75 percent of a full time position from her current 50 percent level. Two seasonal employees have been hired as part-time employees to perform basic clerical functions, and the board has rehired our newsletter editor as a retired annuitant. The board will have to absorb the expense of these salaries.

### ***3. Vacancies***

At the beginning of October, Chief of Legislation and Regulation Paul Riches accepted a position to become executive officer of the Board of Behavioral Science Examiners. Mr. Riches has been with the board five years and has made major contributions to improve and update California Pharmacy Law. He will be missed. Recruitment is now underway for a new legislative coordinator.

At the beginning of September, part-time Receptionist Denise Wong transferred to a full time position in the Department of Health Services. Ms. Wong worked for the board for approximately five years. This leaves the board with one part-time receptionist. Staff will fill in at the front desk to provide receptionist duties.

The board is seeking to fill three vacancies:

- legislative coordinator
- inspector
- cashier

The board has recruited for the inspector position, but cannot find an applicant with the qualifications needed by the board. Instead, the board will need to create a new list of eligible pharmacist candidates. The board has requested that the Department of Consumer Affairs conduct a new civil service examination for this classification; we are awaiting a date for the scheduling of this examination.

The board itself has two public board member positions vacant; these positions were created January 1, 2004, and are Governor appointments.

The board has two staff on parental leave.

# Attachment 1

*Methods of Communication to  
Applicants, Licensees and the  
Public Used by the Board*

## Memorandum

To: Board Members

Date: October 10, 2004

From: Virginia Herold  
Assistant Executive Officer

Subject: Board Communication with the Public and  
Licensees

The board has multiple broad-based means of communication with the public and with licensees:

- Quarterly board meetings, where public input for each agenda area has public input scheduled as a component.
- At least 15 public committee meetings annually, where an agenda is mailed and posted on the board's Web site 10 days before a meeting.
- Web site information
- Consumer education materials
- Co-sponsorship of public education events (e.g., 2003's Hot Topic Seminars with the UCSF School of Pharmacy)
- Attendance at continuing education fairs
- Attendance/staffing at public education fairs and events
- A subscriber e-mail notification system about major new information added to the board's site (implemented at the beginning of October)
- *The Script* newsletter
- Presentations usually by board members and supervising inspectors of the board's CE outreach programs to groups of pharmacists and other health providers, typically at professional meetings (more than 35 presentations were provided during 2003/04)
- Attendance and staffing of information booths at major educational fairs hosted by the major pharmacist associations
- In rare cases, letters are mailed directly to licensees advising them about major changes in programs (for example, changes in wholesaler requirements or foreign graduate evaluations)
- *Health Notes*, a health monograph developed by the board in a particular area that contains current drug treatment modalities, and which provides continuing education for pharmacists in subjects of importance to the board.

Perhaps less broad-based, but certainly important means of communicating with the public or licensees include:

- Inspections (2,582 inspections were conducted during 2003/04)
- Written, faxed and telephone inquiries to the board.
- Surveys of all complainants following closure of their complaints
- Coming is a "Web site User Survey" (currently the board's Web site is being redesigned. One new component will be a "Web site user survey" to seek feedback on the Web site. This information will be used to enhance our Web site)

The board periodically attempts new means of providing information to licensees and other interested parties. As an example, since April, board staff have provided at least four teleconferenced continuing education sessions dealing with the implementation of SB 151 regarding new requirements for the prescribing and dispensing of controlled substances. We also have produced our first audio tape of one of these teleconferences which is available on our Web site, so individuals can obtain the information whenever convenient for them.

A board member and staff also attended each of the four California schools of pharmacy this spring to advise graduating students about the new licensure examinations and processes.

# Attachment 2

## *California Performance Review— A Proposal to Restructure State Government and its Proposal for the Board of Pharmacy*

- An overview of the four-volume report (1 page)
- *LA Times* article (dated 7/30/04) providing an overview of the CPR report (4 pages)
- An excerpt of CPR's HHS21 to "Consolidate Licensing and Certification Functions" (6 pages)
- Two excerpts of the "Implementing Statutes" that would implement the CPR's changes as they would affect the Board of Pharmacy (5 pages)
- Agenda for the August 20<sup>th</sup> Public Hearing on Health and Human Services, and those who testified (5 pages)
- A copy of the Legislative Analyst's Evaluation of the CPR Reorganization. It is comparatively brief and provides a good overview of the CPR (20 pages)

The Report of the California Performance Review - **Government for the People for a Change** - contains four volumes of comprehensive recommendations to reform and revitalize California's state government. 275 volunteers worked tirelessly for five months examining organizational structures, analyzing data, meeting with stakeholders and compiling the recommendations now presented to you, below:




### Prescription for Change

This first volume of the report **summarizes CPR's recommendations** and is a call to action to dramatically change state government by reorganizing its structure and streamlining operations to improve accountability and productivity.



### Form Follows Function

California's **government must reorganize** to meet the demands of modern California. In this volume, CPR proposes a new framework that aligns programs by function, consolidates shared services and abolishes outdated entities.



### Keeping the Books

CPR's team of auditors examined the state's budget process, financial controls and strategic planning efforts. This volume is their evaluation of the state's **fiscal and performance management** practices.



### Issues and Recommendations

The fourth volume of the CPR report contains **279 government issues** with over 1,200 recommendations that have the potential to **save the state \$32 billion** over the next five years and guide California's government into the 21st century.

*"There are risks and costs to a program of action.  
But they are far less than the long-range risks and costs of comfortable inaction."*

-- President John F. Kennedy



Times Staff Writers

July 30, 2004

SACRAMENTO — A panel created by Gov. Arnold Schwarzenegger is proposing a top-to-bottom overhaul of state government that would leave virtually no piece of the state's sprawling bureaucracy intact.

It would wipe out more than 100 boards and commissions, consolidate a tangle of state services and give departments fresh mandates in an ambitious bid to make government leaner and improve its performance, according to a copy of a report obtained by The Times.

In the most intimate of ways, the plan would influence how Californians live their lives. It would change the cutoff date for entering kindergarten; the method in which people answer questions on driver's license exams; the size of jackpots collected by lottery winners; and the procedures for officially complaining about a bad haircut.

The sweeping recommendations, which have not yet been embraced by the governor, are expected to become a target for interest groups and to face major obstacles getting through the Legislature.

If enacted, the plan would greatly concentrate power in the governor's hands while saving \$32 billion over the next five years, in the review panel's estimate.

The proposals are spelled out in a 2,547-page report prepared by his California Performance Review, a team of more than 275 specially appointed state employees, administrative officials and outside consultants who have spent the past five months working largely in secret, evaluating California's government as part of the governor's promise to "blow up the boxes" and create a more streamlined bureaucracy.

"California's spirit is alive and well, but in one vital area the state is ailing," reads the report, which is due to be formally released next week. "Once the envy of the nation, today our state government fails the people of California, and it fails the men and women who have given their careers to its service."

Many of the thousands of proposed changes aim to make government more manageable — to logically organize a state bureaucracy that now relies on hundreds of agencies, departments, divisions, boards and commissions, many with duplicative or overlapping jurisdictions.

The plan is certain to face challenges on ideological as well as pragmatic fronts — from appointees who stand to lose power, legislators uncomfortable with the expansion of executive authority, advocates who object to shrinking government and analysts skeptical of the billions in projected savings.

Nothing on this scale has been tried in decades. Paul Miner, Schwarzenegger's deputy Cabinet secretary who is one of the leaders of the California Performance Review, has said there has not been a study this sweeping in scope since one conducted under former Gov. Ronald Reagan in the 1960s.

"None of this will be accomplished ... through stopgap measures and half-hearted attempts at coordination," the report reads.

Of 339 boards and commissions, a total of 118 would be abolished — doing away with 1,153 appointed positions.

One example: Tax-collecting powers are now divided among three agencies -- the Franchise Tax Board, the independently elected Board of Equalization and the Employment Development Department. All three would be combined into one agency.

The plan is to be formally presented to Schwarzenegger on Tuesday. One recommendation endorsed in the report by the governor's wife, Maria Shriver, would require students at public colleges and universities to participate in community service.

Rob Stutzman, the governor's communications director, said: "What you will see on Tuesday is a report and recommendations, and the administration will be evaluating it and will take public input."

Schwarzenegger has created a 21-person commission that will hold five public hearings on the report throughout the state in August and September. The proposed government reorganization will go to the Little Hoover Commission, which will make recommendations to Schwarzenegger and the Legislature. The governor is expected to send a final version of the plan to the Legislature next year.

"In order for it to get the green light from the Legislature, it's got to be close to perfect," Assembly Speaker Fabian Núñez (D-Los Angeles) said. "And if it isn't, I think it's going to run into a lot of problems."

Here is what the plan would do in certain areas:

- Transportation, water, energy and housing

A department would be created that controls all decisions about state infrastructure -- transportation and housing projects, school construction, energy, telecommunications and the safety of waterways. The Infrastructure Department would consolidate functions now spread across 25 bodies -- including Caltrans and the Department of Water Resources.

- Health and human services

One of the state's most expensive tasks -- \$26.4 billion in public health and welfare programs -- would be streamlined, giving more responsibilities to counties and allowing private contractors to conduct work now done by government employees. The report calls for "sweeping change in financing and delivery of healthcare services to children."

County child-support agencies would be eliminated, and private contractors would have to compete with local agencies for contracts to handle 1.8 million cases, the report recommends.

Free food for young mothers through the state-run Women, Infants and Children program, would be distributed through electronic cards instead of vouchers. Welfare and Medi-Cal applications would be processed on the Internet and through the mail.

The changes would move the Department of Managed Care under the authority of a Department of Health and Human Services and would create a Center for Public Health that would centralize planning and risk assessment, including scientists now working for Cal-EPA analyzing the risk of toxic chemicals.

- Education

The report says California is paying a high cost by not doing a better job of educating its workforce. It recommends a wide array of changes to save money.

The plan would revise the rule that three of every four community college instructors be full-time. It recommends that teachers of career and technical courses be excluded from that ratio.

The report also urged Schwarzenegger to seek a constitutional amendment to abolish county superintendents of schools and county education boards.

The panel would change the cutoff date for kindergarten from Dec. 2 to Sept. 1, on the theory that children who enter kindergarten before they are 5 do not develop as well. The measure would affect at least 90,000 children.

- State budgeting

All major decisions on managing the state's fiscal affairs would fall under the director of a new Office of Management and Budget — a key recommendation to change a system the commission harshly criticized as inefficient and wasteful. "The governor and the Legislature do not have access to the information necessary to make strategic decisions," the report states.

The key agencies that oversee state finances — departments of Finance, General Services and the state personnel board — "should collectively serve as the backbone of state government, yet the functions they perform are so fragmented that strategic management and efficient operation is currently impossible," the commission concludes.

The commission would replace them with the Office of Management and Budget. It also would oversee technology and regulatory affairs and take over responsibilities of the Department of General Services.

The report also recommends the state budget, which is the subject of acrimonious haggling each year, cover two years — as 21 other states do. The report said the current annual budget "creates great pressures on all budget staff and policymakers" and other problems. "Important state programs are interrupted and services postponed. In addition, small and large businesses alike suffer because the state does not pay its bills on time."

- Law enforcement

The proposal calls for melding dozens of law enforcement agencies and offices sprinkled throughout the bureaucracy into a single department, where, the panel said, a coordinated response to crime, terrorism and natural disasters would provide better protection to the citizens of the state. Included under the umbrella of the new department of Public Safety and Homeland Security would be the California Highway Patrol, Alcoholic Beverage Control enforcement and environmental investigators, among others.

- Environment

The plan creates a new Department of Environmental Protection that would usurp powers now held by various boards, including the Air Resources Board and the Department of Forestry and Fire Protection, which would be abolished.

"The members of these boards and commissions are not accountable to the secretary or the governor. As a result it is difficult to implement a coherent environmental protection policy," the report says about the 16 legislatively created boards and commissions that now regulate the environment.

- Consumer protection

The commission would eliminate dozens of licensing boards that now regulate conduct of professions such as doctors, dentists and barbers. The licensing

responsibilities now split among more than 45 agencies would be assumed by the new Department of Commerce and Consumer Protection.

"The multitude of boards and commissions increases the risk that the board members can be unduly influenced by the industry the board is supposed to regulate, accepting lax standards instead of protecting consumers," the report says.

This new department would also oversee gambling, the lottery and horse racing, eliminating the horse racing board. Almost all functions of the state Department of Motor Vehicles would also be under the new agency. The commission also recommended that drivers be allowed to renew licenses via the Internet.

As proposed, the California Lottery would join with several other states to pool jackpot earnings, such as the Mega Millions lottery shared by 11 states, including New York and Virginia. Jackpots would undoubtedly skyrocket with a state as large and wealthy as California joining the pool. The Mega Millions jackpot, for example, once reached \$363 million.

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Times staff writers Jordan Rau, Marc Lifsher, Evan Halper, Miriam Pawel and Gabrielle Banks contributed to this report.

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(BEGIN TEXT OF INFOBOX)

The plan's impact

Among recommendations of Gov. Arnold Schwarzenegger's California Performance Review:

- Eliminate 118 boards and commissions and 1,153 appointees.
- Allow Californians to renew driver's licenses, apply for welfare and conduct more state business by computer.
- Join multistate lottery.
- Abolish county superintendents of schools and county education boards. Delay entrance to kindergarten for 90,000 children a year.
- Phase out state air quality board, which monitors smog.

Paul Riches, Chief of Legislation and Regulation  
CA Board of Pharmacy  
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# HHS21 Consolidate Licensing and Certification Functions

## Summary

Many different state departments, agencies and boards are in the business of licensing and certifying health care professionals and facilities and programs both within and outside the Health and Human Services Agency. This results in inconsistent requirements, locations and oversight for licensing and certification requirements. Merging licensing and certification functions under a single authority would make services more consistent, cost-effective and responsive.

## Background

State agencies perform a variety of licensing and certification functions relating to health and human services. They license facilities and professional staff as providing safe and quality services. They certify to the federal government that health care facilities and professionals are eligible for payments under the Medicare and Medicaid (Medi-Cal) programs. They also certify that certain categories of health and human services staff can provide specific services.

Most, but not all, of these agencies and boards are housed either within the Health and Human Services Agency (HHS) or the Department of Consumer Affairs (DCA). The following HHS departments license or certify facilities, programs or individuals providing services to children or adults:

- Department of Health Services (DHS);
- Department of Social Services (DSS);
- Department of Mental Health (DMH);
- Department of Aging (DOA);
- Department of Alcohol and Drug Programs (DADP); and
- Emergency Medical Services Authority (EMSA). [1]

Of these departments, DHS and DSS have the largest licensing and certification programs. DHS regulates the quality of care in public and private health facilities, clinics and agencies throughout the state through licensure and certification of facilities, direct care staff and laboratory personnel. [2] DSS licenses and regulates facilities and personnel providing social services in a residential setting, child care and adult day social services. [3] In addition, some 16 DCA boards and at least one independent board are responsible for licensure or certification of 35 categories of health care professionals. [4] While some of these boards license or certify multiple categories of health care providers, many are responsible for licensure of only one category of health care professional.

Many state licensing and certification activities require knowledge of both state and federal law. For example, DHS is under contract with the federal Center for Medicare and Medicaid Services to certify skilled nursing facilities and hospitals for participation in the Medicare and Medicaid programs. [5] On the other hand, DSS licensing requirements are governed only by state law. [6] In total, the departments, agencies and boards oversee approximately 58 different types of facilities and programs, as well as more than 50 categories of health and human services professionals. [7] For some departments and boards, the workload is enormous. For

example, DSS is currently responsible for licensure of approximately 92,000 community care facilities, while DHS licenses and monitors nearly 1,400 skilled nursing facilities. [8] The Medical Board of California is responsible for licensure of more than 115,000 physicians, and the Board of Registered Nursing is responsible for licensure of nearly 300,000 registered nurses. [9] Other departments and boards have somewhat less daunting workloads.

All of these licensing and certification entities perform similar functions. They all review applications, develop regulations, license or certify facilities and/or professional staff, respond to complaints, and mete out appropriate penalties for violations. All are required to conduct criminal background checks on certain categories of licensees and/or their staff. In addition, generally, those entities responsible for licensure or certification of facilities must monitor those facilities on a periodic basis, which includes on-site visits. [10] For example, by statute, DHS must visit home health agencies once each year unless the agency is certified to receive Medicare or Medicaid (Medi-Cal) reimbursement. [11] Further, entities that license or certify professional staff are usually responsible for overseeing requirements for continuing education. Finally, some, but not all, of these entities administer a license/certification renewal process. DSS does not require facilities to renew their licenses, although an annual fee must be submitted. [12] However, DHS requires both facilities and professional staff to renew their licenses. [13]

### ***Potential efficiencies***

Merging several entities or portions thereof create the possibility for streamlining the entry of qualified professionals and businesses into the health and human services system through combined screening, licensing and tracking processes. A consolidated structure makes it possible to create a more agile, business-responsive system, aid in workforce growth and increase the availability of health and human services options to consumers. [14]

*Common professional skill sets.* Efficiencies can be attained through the use of a knowledgeable cadre of staff from the consolidated agencies that possess the transferable skills sets necessary to run a uniform licensure and certification program at the lowest possible cost. [15] Most licensing staff are either generalists or nurses. Specialized staff are fewer in number and perform specific functions. Potential efficiencies would result from using staff in inspection and enforcement functions in a broader manner, crossing into other facility types as needed. For example, it is currently possible to have two types of facilities operating within the same building that must be separately licensed by DHS and DSS, including separate applications, monitoring visits and fees. If a Skilled Nursing Facility, which is licensed by DHS, is on the same premises as a Residential Care Facility for the Elderly, which is licensed by DSS, current protocols would involve separate inspections from the two departments, on separate schedules, to conduct the required licensing visits. [16] The proposed consolidation of licensing functions would facilitate training of licensing staff to review more than one level of care, which could result in fewer site visits and greater operational efficiency.

*Resolution of policies and practices that result in barriers to care.* There are longstanding inconsistencies between state licensing boards and state departments involving policies related to scope and site of practice of health professionals. These

inconsistencies have a direct impact on both the quality and cost of care. For example, dental hygienists cannot provide care in nursing homes independent of dentists and very few dentists wish to practice in nursing homes. Many residents cannot travel to dental offices and are not able to maintain good dental hygiene. This can result in tooth extractions, modified diets and nutritional deficiencies, all of which may lead to more costly health care. In a consolidated environment, policies and practices that result in barriers to care can be reconciled. [17]

*Databases.* Centralized databases would help to protect consumers from providers that have been banned from delivering services in any consumer setting. [18] For example, DHS and DSS both maintain statewide tracking systems to identify prior licensees who have run afoul of the law. Shared databases could reduce or eliminate duplication and improve the ability of each licensing entity to identify providers with a prior history of significant problems that may be known to another licensing entity. A centralized database would also benefit the professional staff that provides health and human services to clients. For example, if a Certified Nurse Assistant working part-time in a Residential Care Facility for the Elderly also wishes to work part-time in a Skilled Nursing Facility, that individual currently must undergo a separate background check because the departments do not share a database. [19] A single functional area with a centralized database could reduce the number of duplicate background checks.

*Administrative functions.* Administrative support functions, such as issuing licenses, collecting fees, and conducting criminal record clearances could be consolidated, streamlined and automated. This could reduce or eliminate backlogs, making it faster and easier for professionals and businesses to obtain and maintain ongoing licensure.

*Enforcement functions.* A single enforcement unit will be able to partner with the Department of Justice and other law enforcement entities on initial clearances of applications and uniform enforcement of disciplinary actions and sanctions.

#### ***Previous recommendation to consolidate***

In its May 2004 report entitled *Real Lives, Real Reform: Improving Health and Human Services*, the Little Hoover Commission described the licensing and certification function as "a regulatory tool the State uses to prevent and respond to threats to the health and well-being of Californians." [20] In that report, the commission recommended that facility and personnel licensing and certification activities be consolidated. [21] Specifically, the report proposes a Licensing and Certification Service Center that would report to the Health and Human Services Agency Secretary and respond to the needs of the departments within the Agency. [22]

#### ***Comparison with other states***

None of the states contacted regarding the structure of their health and human services licensing and certification functions has fully consolidated those functions. Some states are either in the process or have successfully consolidated some licensing functions. For example, Texas's most recent proposal would place child care licensing under the control of the state's Children and Families Department rather than the Department of Protective and Regulatory Services. [23] Connecticut,

Delaware, Florida, Illinois, Kentucky, New Mexico, Rhode Island and Tennessee and the District of Columbia have consolidated licensing of children's programs under a separate state agency. [24] However, in Ohio, Pennsylvania, New York, Texas and Florida, such licensure and/or certification, whether for Medicaid- or non-Medicaid-covered services, is currently conducted by the single state authority for substance abuse services, rather than by a consolidated licensing authority. [25]

### Recommendation

**The Health and Human Services Agency, or its successor, should sponsor legislation consolidating licensing and certification functions affecting delivery of health care services.**

This would include all health and human services licensing and certification functions currently housed in the Health and Human Services Agency, Department of Consumer Affairs and any independent agencies or boards.

### Fiscal Impact

Consolidating all licensing and certification activities in one place should create opportunities for significant cost savings as duplicative functions are eliminated. In its most recent report, the Little Hoover Commission estimated that consolidating certain health and human services licensing agencies could result in savings equal to 10 percent of personnel costs. [26] Based on this figure, we estimate that total annual savings will be \$16 million, with General Fund savings of \$4.6 million. These would be realized on an ongoing basis after a one-year implementation period.

#### General Fund (dollars in thousands)

Fiscal Year	Savings	Costs	Net Savings (Costs)	Change in PYs
2004-05	\$0	\$0	\$0	0
2005-06	\$4,652	\$0	\$4,652	0
2006-07	\$4,652	\$0	\$4,652	(91)
2007-08	\$4,652	\$0	\$4,652	(91)
2008-09	\$4,652	\$0	\$4,652	(91)

Note: The dollars and PYs for each year in the above chart reflect the total change for that year from 2003-04 expenditures, revenues and PYs.

#### Other Funds (dollars in thousands)

Fiscal Year	Savings	Costs	Net Savings (Costs)	Change in PYs
2004-05	\$0	\$0	\$0	0
2005-06	\$11,961	\$0	\$11,961	0
2006-07	\$11,961	\$0	\$11,961	(162)



2007-08	\$11,961	\$0	\$11,961	(162)
2008-09	\$11,961	\$0	\$11,961	(162)

Note: The dollars and PYs for each year in the above chart reflect the total change for that year from 2003–04 expenditures, revenues and PYs.

## Endnotes

[1] Susan Diedrich, assistant secretary, Health and Human Services Agency, fax message (May 5, 2004); Brenda Klutz, deputy director, Licensing and Certification, Department of Health Services, interview (May 10, 2004); Patricia Morrison, Licensing and Certification, Department of Health Services, interview (May 19, 2004); Richard Rodriguez, Prevention Services, Department of Health Services (May 10-12, 2004); and Debbie Prinzo, Prevention Services Division, Department of Health Services, e-mail message (June 1, 2004).

[2] Interview with Brenda Klutz, deputy director, Licensing and Certification Division, Department of Health Services, Sacramento, California (April 29, 2004). Interviews with Richard Rodriguez, assistant deputy director, Prevention Services, Department of Health Services, Sacramento, California (May 10-12, 2004).

[3] E-mail message from Curt Smith, Skilled Healthcare (April 13, 2004). Interview with Curt Smith, Skilled Healthcare, Foothill Ranch, California (June 7, 2004).

[4] Certification of nurse assistants is required by Health & S.C. Sections 1337, 1337.1 and 1337.2. Certification of home health aides is required by Sections 1727(d) and 1736.1. Backlog as of March 2004. Department of Health Services, "Licensing and Certification Program, Professional Certification Branch, 4-30-04 staffing.doc," received from Brenda Klutz, deputy director, Licensing and Certification Division, Department of Health Services (May 12, 2004) (Unpublished report).

[5] E-mail from Brenda Klutz, deputy director, Licensing and Certification Program, Department of Health Services, to California Performance Review (June 17, 2004).

[6] Interview with Bill Jordan, chief, Caregiver Background Check Bureau, and Gary Palmer, chief, Administrative Support Bureau, California Department of Social Services, Sacramento, California (June 17, 2004).

[7] Department of Health Services, "Types of Facilities Licensed and Certified by the Program;" Health and Welfare Agency report; Department of Finance, "Governor's Budget 2004–05, Salaries and Wages Supplement;" survey of website search on Board of Chiropractic Examiners; and survey of website search on Department of Consumer Affairs.

[8] Department of Finance, "Governor's Budget Summary 2004–05," p. 133; and California Department of Health Services, "FFY 2003 Workload Allocation and PY Count" (Sacramento, California, September 15, 2003).

[9] Medical Board of California, "2002-2003 Annual Report," [http://www.medbd.ca.gov/02\\_03annualreport.pdf](http://www.medbd.ca.gov/02_03annualreport.pdf) (last visited June 20, 2004); and Board of Registered Nursing, "The BRN Report," Fall 2003, <http://www.rn.ca.gov/policies/pdf/brnfall2003.pdf> (last visited June 20, 2004).

[10] Interview with Bill Jordan and Gary Palmer; e-mail from Brenda Klutz, deputy director, Licensing and Certification Program, Department of Health Services (June 17, 2004); and e-mail from Alfred Nicholls, chief, Licensing and Certification, Program Compliance, Department of Mental Health, to California Performance Review (June 18, 2004).

[11] Health & S. C. 1733.

[12] Interview with Bill Jordan and Gary Palmer.

[13] E-mail from Brenda Klutz.

[14] Issue memo, provided during interview with Brenda Klutz, deputy director, Licensing and Certification Program, Department of Health Services (March 15, 2004).

[15] Issue memo provided by Brenda Klutz.

[16] Interview with Bill Jordan and Gary Palmer.

[17] Issue/Problem memo, provided by Brenda Klutz, deputy director, Licensing and Certification Program, Department of Health Services, sent to California Performance Review, March 15, 2004.

[18] Issue/Problem memo provided to California Performance Review.

[19] Interview with Bill Jordan, and Gary Palmer.

[20] Little Hoover Commission, "Real Lives, Real Reforms: Improving Health and Human Services" (Sacramento, California, May 2004), p. 38.

[21] Little Hoover Commission, "Real Lives, Real Reforms: Improving Health and Human Services," p. 44.

[22] Little Hoover Commission, "Real Lives, Real Reforms: Improving Health and Human Services," p. 42.

[23] E-Texas, "GG3: Consolidate Health and Human Services Agencies to Reduce Cost and Improve Service Delivery," January 2003, <http://www.window.state.tx.us/etexas2003/gg03.html> (last visited June 20, 2004).

[24] American Public Human Services Association, 2001–2002 Public Human Services Directory (Washington, D.C., June 15, 2002).

[25] Interview with Doug Day, Medicaid administrator, Ohio Department of Drug Addiction Services, Columbus, Ohio (May 17, 2004); interview with Jean Rush, program specialist, Office of Mental Health and Substance Abuse Services, Pennsylvania Department of Public Welfare, Harrisburg, Pennsylvania (May 13, 2004); interview with Marie Spada, addiction program specialist, New York Office of Alcoholism and Substance Abuse Services, Albany, New York (May 11, 2004); interview with Brad Bergeson, manager, Services Coordination Division, Texas Commission on Alcohol and Drug Abuse, Austin, Texas (May 10, 2004); Florida Department of Children and Families, "Substance Abuse," <http://www.dcf.state.fl.us/mentalhealth/sa/> (last visited June 20, 2004).

[26] Little Hoover Commission, "Real Lives, Real Reforms: Improving Health and Human Services," p. 41.

## Implementing Statutes

California State Government is a complex web of organizational entities consisting of 11 agencies, 79 departments and more than 300 boards and commissions. This appendix contains a conceptual draft legislative framework to reorganize state government reflecting the form follows function approach identified by the California Performance Review.

*Article 2 (commencing with section 12815) is added to Chapter 1, Part 2.5, Division 3, Title 2 of the Government Code.*

12815. Effective July 1, 2005, there is hereby created in state government the Department of Commerce and Consumer Protection, to be headed by a Secretary, who shall be appointed by, and hold office at the pleasure of, the Governor, subject to Senate confirmation.

➤ 12815.1. The Department of Commerce and Consumer Protection hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following Departments, Offices, and Boards, which effective July 1, 2005, shall no longer exist:

✓ (a) Department of Consumer Affairs, except as to those functions which have been transferred to other agencies as provided by law;

(b) Department of Corporations;

(c) Department of Financial Institutions;

(d) Department of Motor Vehicles except as to those functions which have been transferred to other agencies as provided by law;

(e) Department of Real Estate; and

(f) Office of Real Estate Appraiser.

For purposes of this article, the above entities shall be known as predecessor entities.

12815.2. The Department of Commerce and Consumer Protection hereby succeeds to, and is vested with, all the duties, responsibilities, obligations, liabilities, and functions of entities within the Department of Consumer Affairs, which effective July 1, 2005, shall no longer exist:

(a) Motor Vehicle Arbitrator Certification Program (B&P 742)

(b) Bureau of Automotive Repair;

(c) Bureau of Electronic and Appliance Repair;

(d) Office of Privacy Protection;

(e) Cemetery and Funeral Bureau;

(f) Bureau of Home Furnishing and Thermal Insulation;

(g) Hearing Aid Dispensers Bureau;

(h) Bureau of Security and Investigative Services of the Department of Consumer Affairs;

(i) Private Security Disciplinary Review Commission (North and South); and

(j) Alarm Company Disciplinary Review Committee.

For purposes of this article, the above entities shall be known as predecessor entities.

12815.3 . The Department of Commerce and Consumer Protection hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following Boards, Committees and Commissions within the Department of Consumer Affairs, which effective July 1, 2005, shall no longer exist:

- (a) California Architects Board;
- (b) California State Board of Barbering and Cosmetology;
- (c) Contractors State License Board;
- (d) Court Reporters Board of California;
- (e) Board for Professional Engineers and Land Surveyors;
- (f) Landscape Architects Technical Committee;
- (g) Speech-Language Pathology and Audiology Board;
- (h) California Horse Racing Board; and
- (i) Board of Pilot Examiners for Bays of San Francisco, San Pablo and Suisun.

For purposes of this article, the above entities shall be known as predecessor entities.

12815.4. The Department of Commerce and Consumer Protection hereby succeeds to, and is vested with, all the duties, responsibilities, obligations, liabilities, and functions and personnel of entities within Departments, which effective July 1, 2005, shall no longer exist:

- (a) Outdoor Advertising licensing and permitting functions within the Department of Transportation;
- (b) Licensing of vessel operators from within the Dept. of Boating and Waterways;
- (c) Licensing of "For hire" vessel operators from within the Dept. of Boating and Waterways;
- (d) Licensing of yacht and ship brokers and salespersons within the Department of Boating and Waterways;
- (e) Functions of the Division of Weights and Measures within the Department of Food and Agriculture;
- (f) Talent Agency licensing under the Labor Commissioner within the Department of Industrial Relations; and
- (g) Advance-Fee Talent Services licensing under the Labor Commissioner within the Department of Industrial Relations.

For purposes of this article, the above entities shall be known as predecessor entities.

12815.5 . Effective July 1, 2005, the following entities are hereby transferred to the Department of Commerce and Consumer Protection and shall retain all existing powers, duties, purposes, responsibilities, and jurisdiction:

- (a) California Gambling Control Commission;
- (b) Board of Accountancy; and
- (c) California State Lottery Commission.

*Note: GAP in text to conserve Page# non relevant to Board*

12820.6. On and after July 1, 2005, any officer or employee of the predecessor entities who is performing a function transferred to the Department of Food and Agriculture and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Food and Agriculture pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities and continuing entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Food and Agriculture, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

*Article 6 (commencing with section 12822) is added to Chapter 1, Part 2.5, Division 3, Title 2 of the Government Code.*


12822. There is hereby created in state government the Department of Health and Human Services, to be headed by a Secretary, who shall be appointed by, and hold office at the pleasure of, the Governor, subject to Senate confirmation. Commencing July 1, 2005, any reference in any law to the "Health and Human Services Agency" or the "Health and Welfare Agency" shall refer to the Department of Health and Human Services.

12822.1. The Governor shall appoint, upon the nomination of the Secretary, such officers as are deemed necessary to manage and direct the functions of the department.

12822.2. The Department of Health and Human Services hereby succeeds to, and is vested with, all the powers, duties, purposes, responsibilities, and jurisdiction of the following Agency, Boards, and Departments which effective July 1, 2005, shall no longer exist:

- (a) Health and Human Services Agency (with the exception of Health and Human Services Data Center which is transferred to the Office of Management and Budget);
- (b) Department of Aging;
- (c) Department of Child Support Services ;
- (d) Department of Developmental Services, except the Office of Protective Services, which is transferred to the Department of Public Safety and Homeland Security;
- (e) Department of Health Services (with the exception of (1) the Office of the Safe Drinking Water and Radioactive Materials Inspection Compliance and Inspection Section, which shall be transferred to the Department of Environmental Protection unless otherwise provided, (2) the Food and Safety Section, Food and Drug Laboratory Section, and the Food Partnership Laboratory, which shall be transferred to the Department of Food and Agriculture, and (3) the Battered Women's Shelter Program, which shall be transferred to the Department of Public Safety and Homeland Security.);
- (f) Department of Alcohol and Drug Programs;
- (g) Department of Community Services and Development;
- (h) Department of Mental Health;
- (i) Department of Social Services;
- (j) Department of Rehabilitation (with the exception of the Vocational Rehabilitation program which is transferred to the Department of Labor and Workforce Development);
- (k) California Medical Assistance Commission;
- (m) Managed Risk Medical Insurance Board;
- (n) Office of HIPPA implementation;
- (o) Office of Environmental Health Hazard Assessment;
- (p) Department of Managed Health Care; and
- (r) Office of Statewide Health Planning and Development.

For purposes of this article, the above entities, with the exception of the transferred entities, shall be known as predecessor entities.

 12822.3. Effective July 1, 2005, the following entities are hereby transferred to the Department of Health and Human Services and shall retain all existing powers, duties, purposes, responsibilities, and jurisdiction:

- (a) California Children and Families Commission;
- (b) State Independent Living Council;
- (c) Continuing Care Advisory Committee;
- (d) Developmental Disability Area Boards;
- (e) Health Professions Education Foundation;
- (f) Health Professions Educational Foundation Board of Trustees;
- (g) Healthcare Workforce Policy Commission;
- (h) Hospital Advisory Boards;
- (i) Interagency Coordinating Council on Early Intervention;
- (j) State Council on Developmental Disabilities;
- (k) California Board of Acupuncture within the Department of Consumer Affairs;
- (l) Board of Behavioral Sciences within the Department of Consumer Affairs;
- (m) Committee on Dental Auxiliaries within the Department of Consumer Affairs;
- (n) Dental Board of California within the Department of Consumer Affairs (with the exception of those powers, duties, responsibilities, obligations, liability and jurisdiction transferred to the Department of Public Safety and Homeland Security) ;
- (o) California Medical Board within the Department of Consumer Affairs (with the exception of those powers, duties, responsibilities, obligations, liability and jurisdiction transferred to the Department of Public Safety and Homeland Security);
- (p) Naturopathic Medicine Bureau within the Department of Consumer Affairs;
- (q) Board of Occupational Therapy within the Department of Consumer Affairs;
- (r) Board of Optometry within the Department of Consumer Affairs;
- (s) Osteopathic Medical Board of California within the Department of Consumer Affairs;
- (t) California State Board of Pharmacy within the Department of Consumer Affairs;
- (u) Physician Assistant Committee within the Department of Consumer Affairs;
- (v) Physical Therapy Board of California within the Department of Consumer Affairs;
- (w) Board of Podiatric Medicine within the Department of Consumer Affairs;
- (x) Board of Psychology within the Department of Consumer Affairs;
- (y) Board of Registered Nursing within the Department of Consumer Affairs;
- (z) Registered Veterinary Technicians Committee within the Department of Consumer Affairs;
- (aa) Respiratory Care Board within the Department of Consumer Affairs;
- (bb) Veterinary Medical Board within the Department of Consumer Affairs;
- (cc) Board of Vocational Nursing and Psychiatric Technicians;
- (dd) Board of Chiropractic Examiners; and
- (ee) Financial Solvency Standards Advisory Board.


For purposes of this article, the above entities shall be known as continuing entities.

12822.4. (a) The Secretary of Health and Human Services shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Without limiting any other powers or duties, the secretary shall assure compliance with the terms of any state plan, memorandums of understanding, administrative order, interagency agreements, assurances, single state agency obligations, federal statute and regulations, and any other form of agreement or obligation that vital government activities rely upon or are a condition to the continued receipt by the department of state or federal funds or services. This includes, but is not limited to the designation, appointment, and provision of individuals, groups, and resources to fulfill specific obligations of any agency, board or department that is abolished pursuant to Section 12822.2.

12822.5. All regulations adopted by the predecessor entities, continuing entities and any of their predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities, continuing entities or any of their predecessors shall mean the Department of Health and Human Services. Any action by or against the predecessor entities, continuing entities or any of their predecessors shall not abate but shall continue in the name of the Department of Health and Human Services, and the Department of Health and Human Services shall be substituted for the predecessor entities, continuing entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

12822.6. No contract, lease, license, bond, or any other agreement to which the predecessor entities, continuing entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Health and Human Services assuming all of the rights, obligations, liabilities, and duties of the predecessor entities, continuing entities and any of their predecessors. That assumption by the Department of Health and Human Services shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities, continuing entities or any of their predecessors on or before July 1, 2005, shall become the indebtedness of any newly created entity. Any on-going obligations or responsibilities of the predecessor entities and continuing entities for managing and maintaining bond issuances shall be transferred to the newly created entity without impairment to any security contained in the bond instrument.

 12822.7. On and after July 1, 2005, the unexpended balance of all funds available for use by the predecessor entities, continuing entities or any of their predecessors in carrying out any functions transferred to the Department of Health and Human Services shall be made available for the use by the Department of Health and Human Services. All books, documents, records, and property of the predecessor entities and continuing entities shall be transferred to the Department of Health and Human Services.

12822.8. On and after July 1, 2005, positions filled by appointment by the Governor in the predecessor entities or continuing entities shall be transferred to the Department of Health and Human Services. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Secretary with the

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Saturday, September 11, 2004

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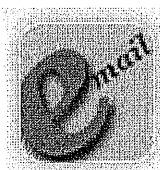


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## CPR COMMISSION HEARING SCHEDULE



**CPR Commission Hearing  
Health and Human Services  
U.C. San Diego  
Friday, August 20, 2004**

### Hearing Transcript

#### Welcome

10:00 - 10:05  
Marsha A. Chandler  
Acting Chancellor  
U.C. San Diego

#### Welcoming Remarks

10:05 - 10:10  
Bill Hauck and Joanne Kozberg  
Co-Chairs, California Performance Review Commission

#### Overview of CPR Health and Human Services

10:10 - 10:50  
Recommendations  
Terri Parker and Bob Sertich  
Team Leaders, CPR Health and Human Services Team

[CPR Overview presentation](#)



8-20 CPR HHS presentation**Health and Human Services Delivery Panel**

10:50 – 11:50

Mark B. Horton, M.D., MSPH

Deputy Agency Director and Health Officer, Orange County Health  
Care Agency Representative, California Council of Local Health  
OfficersTestimony (as submitted)

Sam Karp

Director of Health Information Technology, California Health  
FoundationTestimony (as submitted)

Barbara Kondylis

County Supervisor, Solano County

Representative, California State Association of Counties

Testimony (as submitted)

Will Lightbourne

Director, Santa Clara County Social Services Agency

President, County Welfare Directors Association of California

Testimony (as submitted)

Stephen J. Maulhardt

Executive Vice President, Aegis Medical Systems, Inc.

Representative, California Association for Alcohol and Drug  
Program ExecutivesTestimony (as submitted)

Jim Mayer

Executive Director, Little Hoover Commission

Testimony (as submitted)

Dan Souza, LCSW

Director, Stanislaus County Behavioral Health and Recovery  
Services Governing Board Member, California Mental Health  
Directors AssociationTestimony (as submitted)**Lunch**

11:50 - 12:35

**Health and Human Services Advocates Panel**

12:35 - 1:50

Kevin Aslanian  
Executive Director, Coalition of California Welfare Rights  
Organizations, Inc.  
Testimony (as submitted)

Mike Herald  
Legislative Advocate, Western Center on Law and Poverty  
Testimony (as submitted)

Marilyn Holle  
Senior Attorney, Protection and Advocacy, Inc.  
Testimony (as submitted)

Peter Mendoza  
Chair, State Council on Developmental Disabilities  
Testimony (as submitted)

Arthur Naldoza  
Deputy Director, La Cooperativa Campesina de California  
Testimony (as submitted)

Carole Shauffer  
Executive Director, Youth Law Center  
Testimony (as submitted)

Catherine Teare  
Director of Policy, Children Now  
Testimony (as submitted)

Debra M. Ward, M.P.H.  
Deputy Director, Community Clinic Association of Los Angeles  
County  
Testimony (as submitted)

Lucien Wulsin Jr.  
Project Director, Insure the Uninsured Project  
Testimony (as submitted)

### **Health and Human Services Provider Panel**

1:50 - 2:25

Steve A. Escoboza  
President and CEO, Healthcare Association of San Diego and  
Imperial Counties  
Testimony (as submitted)

Elia V. Gallardo

Director of Government Affairs, California Primary Care Asso  
Testimony (as submitted)

Robert E. Hertzka, M.D.  
President, California Medical Association  
Testimony (as submitted)

Steven Tough  
President and CEO, California Association of Health Plans  
Testimony (as submitted)

### **Public Comment**

2:25 - 4:00

### **Adjourn**

4:00

### **Supplemental Testimony**

(Received as of 8/19/04)

Sanford Bernstein, Ph.D., Chair, Research Committee,  
American Heart Association Western States Affiliate

Ray Durazo, Chairman of the Board, & Hannah Valantine, M.  
President, American Heart Association, Western States Affili

The Avisa Group

Terry Bott

California Association of Area Agencies on Aging  
Ronald Errea, President

California Association of Alcohol and Drug Program Executive

California Alliance of Child and Family Services  
Carroll Schroeder, Executive Director

The Coalition of Alcohol and Drug Associations

Connie Moreno-Peraza, President, The County Alcohol and D  
Program Administrators Association of California

California Alternative Payment Program Association  
Denyne M. Kowalewski, Executive Director

California Budget Project

California Conference of Local Health Officers

Nancy Dolton, Chair, California Commission on Aging

Miriam Aroni Krinsky, Executive Director, Children's Law Center of Los Angeles

Martin Martinez, MPP, Policy Director, California Pan-Ethnic Network

California State Rural Health Association

Robert Donin, President, TRI-PAC Health and Wellness Advocates

Barrie Becker, State Director, & Brian Lee, Policy Director, FIGHTING CRIME: INVEST IN KIDS California

Donna Gerber, Director of Government Relations, California Association of Governments

Leland "Stew" Hanson, Disabled Retiree, Los Angeles School District

Cynthia Huckelberry, RN, MA

Latino Coalition for a Healthy California Patricia Diaz, Policy Director

Lynn Kersey, MA, MPH, Executive Director, Maternal and Child Health Access

Bill Bowman, CEO Regional Center of Orange County

United Domestic Workers of America

Western Center on Law and Poverty

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# An Initial Assessment of The California Performance Review

ELIZABETH G. HILL • LEGISLATIVE ANALYST

On August 3, 2004, the California Performance Review (CPR) released its report on reforming California's state government, with the aim of making it more efficient and more responsive to its citizens. This report provides our initial comments on the CPR report. Specifically, we: (1) provide an overview of its reorganization framework and other individual recommendations, (2) discuss the savings it assumes from its major proposals, and (3) raise key issues and considerations relating to CPR's various proposals. ■

## INTRODUCTION

On August 3, 2004, the California Performance Review (CPR) released its report to the Governor on reforming California government. The report lays out a framework for reorganizing and consolidating state entities, and contains 278 issue areas and 1,200 individual recommendations aimed at making state government more modern, efficient, accountable, and responsive to its citizens. The CPR also adopted the 239 proposals included in a report recently issued by the Corrections Independent Review Panel. The CPR asserts that the state would achieve about \$32 billion in savings over the next five years if all of its recommendations were fully adopted.

The CPR has four volumes. The first sets forth its major goals, the second lays out a reorganization plan for state government, the third provides a budget and financial review of California state government, and the fourth contains CPR's individual proposals.

**LAO's Bottom Line.** The CPR provides the state with a valuable opportunity to comprehensively examine how it does business. It has made a serious effort at rethinking the current organization of state government and how it delivers services to the people of California. We find that many of its individual recommendations would move California toward a more efficient, effective, and accountable government.

At the same time, the rationale for some of its reorganization proposals is not clear, it does not examine whether the state should continue

to perform certain functions, and many of its fiscal savings estimates are overstated.

For these reasons, it will be important for the Legislature to evaluate the merits of the proposals individually, looking at their policy trade-offs, their likely effectiveness, and their fiscal implications. The Legislature also may wish to consider broadening the scope of reforms offered by CPR to include a more comprehensive examination of the state and local tax system, the role of constitutional officers, the state's system of funding education, and the relationship between state and local government.

**Organization of This Report.** This report, which provides our initial reaction to the CPR report, has three sections:

- "Section 1" provides an overview of CPR's reorganization plan and its other proposals, reviews CPR's estimated savings from its proposals, and discusses key issues for the Legislature to consider in reviewing the plan.
- "Section 2" looks at the *reorganization framework* in more detail and discusses key principles that should guide a reorganization.
- "Section 3" reviews CPR's *key proposals* in each of the major areas of the budget, providing some context for the proposals and our initial reaction to them.

## SECTION 1: OVERVIEW

### CPR'S MAJOR COMPONENTS

The CPR has two major components—a reorganization of state entities and other individual recommendations. Below we briefly describe both of these components.

#### Reorganization of State Entities

The CPR proposes a major reshuffling of the state's agencies, departments, boards, commissions, and other entities. In reorganizing state government, the CPR proposal focuses on aligning similar programs and consolidating administrative functions in order to eliminate duplication of effort and improve customer service. The major components of the reorganization are:

- **Creation of 11 Mega-Departments.** The core of the CPR reorganization is the creation of 11 large, mega-departments. These mega-departments would merge the policy-setting function of agencies with the program administration function of departments.
- **Office of Management and Budget.** The CPR reorganization would also consolidate the state's policy and budget oversight agencies into a unified Office of Management and Budget (OMB). The OMB would be responsible for oversight on budgetary, state employment and retirement, technology, and regulatory matters.
- **Tax Commission.** The CPR proposes to merge three of the state's principal tax collections agencies—the Franchise Tax

Board, Employment Development Department, and the Department of Motor Vehicles. The Board of Equalization (BOE), however, would be retained as an independent entity.

- **Discontinuation of Many Boards and Commissions.** The report recommends discontinuing 117 independent boards, commissions, and task forces—including the Air Resources Board, Energy Commission, Student Aid Commission, Board of Prison Terms, and Youth Authority Board. For the majority of these discontinuations, the CPR consolidation would move these entities' activities under one of the new mega-departments.

#### Individual Recommendations

As noted above, the CPR identifies 278 issue areas and contains about 1,200 specific proposals affecting a wide range of government programs. Although the proposals cover a vast number of individual areas, they can be generally placed into one or more of the following five broad categories.

- **Enhancing Program Efficiencies and Service Levels.** Some major examples in this area are: (1) a major proposal to consolidate the eligibility determination process for California Work and Responsibility to Kids (CalWORKs), Medi-Cal, and food stamps; (2) both general and specific proposals relating to the state's workforce; (3) proposals to expand use

of new technologies, such as SMART cards for Medi-Cal, and electronic benefit transfer cards; (4) proposals to increase reliance on the Internet for such things as motor vehicle fee payments and benefit and licensing applications; and (5) various contracting and procurement reforms.

- ***Shifting Program Responsibilities and Funding.*** These include a targeted realignment of state and local health and social services programs, as well as several proposals to shift costs away from state government to other entities. These include (1) seeking additional federal funds, (2) shifting property taxes from enterprise special districts for the benefit of the state, (3) shifting responsibility for certain highways from the state to local governments, and (4) increasing student fees on out-of-state residents.
- ***Privatization.*** These include the contracting out to the private sector such functions as child support administration, job training, and health care for prison inmates.
- ***Changes in Governance.*** These include the elimination of boards and commissions, the consolidation of county offices of education into regional bodies, the elimination of the community colleges' Board of Governors, and a new structure for overseeing the state's use of information technology.
- ***Changes in Policy.*** While CPR primarily focuses on issues related to efficiencies

and service delivery, it does include several proposals that involve significant changes in underlying policies. Examples include the imposition of a sales tax credit for new business investment, changes in the regulation of timber and other natural resources, expanded use of high occupancy toll lanes, allowing community colleges to offer bachelor degrees, expanding the lottery, and changing the cutoff age for kindergarten enrollment.

## CPR'S SAVINGS ESTIMATES

The CPR indicates that its proposals, if fully adopted, would generate savings of slightly over \$1 billion in 2004-05 and \$32 billion over the next five years combined. According to CPR estimates, about one-third of the cumulative savings would accrue to the General Fund and the remaining two-thirds would accrue to special funds, federal funds, and local funds. Figure 1 (see next page) shows that on an annual basis, savings to the General Fund are projected to be in the range of \$2 billion to \$3 billion per year starting in 2005-06, while annual savings to other funds are projected to average \$5 billion to \$6 billion.

## Proposals With Major Fiscal Effects

As shown in Figure 2 (see page 7), proposals in 15 issue areas account for almost 88 percent of the total savings estimated by CPR for the next five years. Nearly one-half the total is related to just three broad proposals: one to maximize federal grants (\$8.2 billion), another to transform eligibility processing for Medi-Cal, CalWORKs, and food stamps (\$4 billion), and



the third related to the creation of a workforce plan for California state employees that would result in fewer employees (\$3.3 billion). Significant savings are also scored for transportation funding proposals which include seeking higher federal taxes on fuels containing ethanol, changes in enrollment cutoff dates for kindergarten, biennial vehicle registration (mostly one-time revenues from the acceleration of fees paid by motorists), increased lottery sales, and increases in college and university tuition for out-of-state residents.

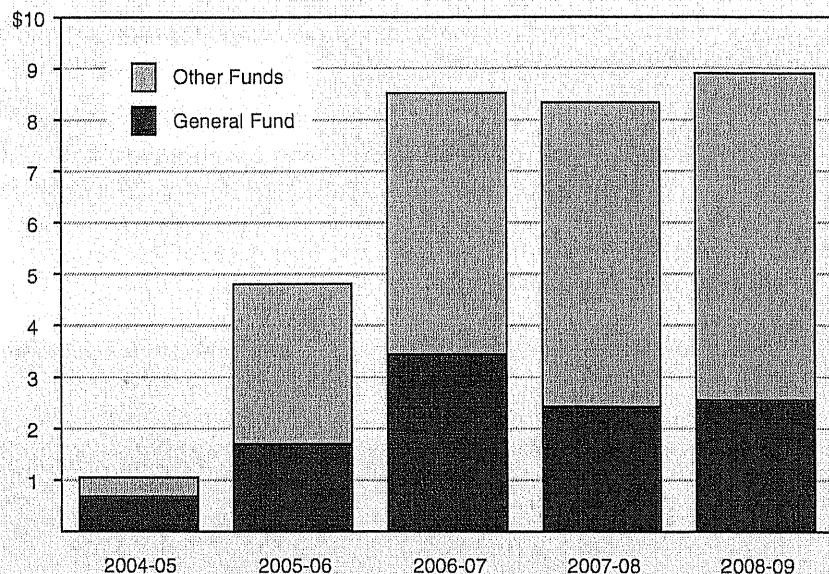
**Savings Overstated.** In many instances, the CPR was conservative in scoring savings from its individual proposals—acknowledging that actual savings, while likely, simply could not be estimated. However, in other instances, the CPR scored savings that are uncertain or overstated. This is especially the case with regard to many of the proposals with the largest identified savings shown in Figure 2. Specifically, we found that:

- **Many of the Proposals Not Fully Developed.** This is particularly the case for the third proposal in Figure 2, where the CPR scores over \$3 billion in cumulative savings from the development of an as-yet unspecified workforce plan.

- **Savings Depend on Federal Actions Rather Than Specific CPR Recommendations.** This applies to the proposal to maximize grant funds from the federal government, as well as the proposal to seek a higher federal tax rate on fuels containing ethanol (which would result in added transportation-related distributions to California). California has long argued for additional federal grants to recognize such factors as its higher-than-average poverty levels and its higher-than-average costs associated with illegal immigration. However, significant increases in federal funds would require changes in federal funding formulas, with potentially negative implications for other states. California is already lobby-

**Figure 1**  
**CPR Estimate of Savings From Its Proposals**

(In Billions)



ing Congress for increased federal taxes on fuels containing ethanol. It is not clear how the process change recommended by CPR will result in the report's assumed level of federal funds.

- **The Potential Savings Are Beyond What Is Reasonably Achievable.** This applies to several proposals involving consolidations of eligibility determination and procurement processes, lottery savings, and the proposed tax relief for new business equipment investment.
- **Offsetting Costs Not Consistently Recognized.** This is the case for many proposals which would require an initial expenditure of funds in order to realize future savings. Implementation of new

information technology systems is one such example.

- **Savings From Similar Proposals Have Already Been Adopted in the 2004-05 Budget.** This is the case for the tax amnesty, surplus property, nonresident student fee, and several corrections proposals.

Taking into account these factors, we believe that a more realistic savings assumption *attributable to state actions* would be less than one-half of the \$32 billion shown. While any estimate of savings is highly uncertain, we believe that a more reasonable cumulative estimate for all funds over the next five years would be roughly \$10 billion to \$15 billion. In annual terms, this translates into \$3 billion or less per year, divided

**Figure 2**  
**Fifteen CPR Proposals With Largest Fiscal Effects**

(CPR Estimates, Dollars in Millions)

Rank	CPR Reference	Issue	Five-Year Savings			Cumulative Percent of Total
			General Fund	Other Funds	Total	
1	GG 07	Maximize Federal Grant Funds	—	\$8,200	\$8,200	26%
2	HHS 01	Transform Eligibility Processing	\$1,548	2,471	4,018	39
3	SO 43	Work Force Plan for California State Employees	1,646	1,646	3,293	49
4	ETV 11	Change Enrollment Entry Date for Kindergartners	1,880	820	2,700	58
5	INF 15	Transportation Funding Initiatives	—	1,960	1,960	64
6	GG 36	Biennial Vehicle Registration	1,259	—	1,259	68
7	GG 06	Lottery Reforms	—	1,024	1,024	71
8	ETV 18	Increase College and University Tuition for Non-Resident Students	—	1,004	1,004	74
9	SO 71	Performance-Based Contracting	485	485	970	77
10	SO 72	Strategic Sourcing	427	427	855	80
11	INF 30	Decentralize Real Estate Services	410	410	819	83
12	INF 13	Relinquish Highway Routes to Local Agencies	—	432	432	84
13	GG 01	Tax Amnesty	384	15	399	85
14	INF 11	Selling Surplus Property Assets	379	—	379	86
15	GG 17	Tax Relief on Manufacturing Equipment	343	—	343	88
		All Other CPR Proposals	2,029	1,921	3,950	100
<b>Totals, All CPR Proposals</b>			<b>\$10,791</b>	<b>\$20,815</b>	<b>\$31,606</b>	<b>100%</b>

roughly evenly between the General Fund and other funds. Regarding the revised General Fund total, nearly one-half of the savings would be attributable to a single proposed change—the delay in the enrollment entry date for kindergartners who are less than five years old at the beginning of the school year.

Our lower overall savings estimate does not make the goals or proposals offered by the CPR any less valid. The state would clearly benefit from changes that enhance workforce productivity, improve and streamline services, and reduce inefficiencies in government—even if the savings were only a fraction of the CPR estimates. At the same time, it is important to recognize that even if all the CPR's recommendations were adopted, the fiscal savings would only cover a relatively small portion of the large structural shortfall facing California's budget in the future. Stated another way, even if the proposals were adopted, the state will continue to face hard choices regarding program funding levels and taxes in order to balance its future budgets.

## ISSUES AND CONSIDERATIONS

The CPR has developed an impressive list of proposals in a relatively short timeframe, which provides the state with a valuable opportunity to examine many aspects of how it does business. At the same time, the report raises a large number of important policy issues which need to be considered.

### Does a Massive Reorganization Make Sense?

California's past successes and failures with reorganization plans strongly suggest that reorganizations should be undertaken only when (1) there is a clearly defined problem with

the existing system and (2) there is a convincing reason to believe that the new system will address the problem and, more generally, enable the state to provide services more efficiently and effectively. We believe there are a number of areas that the CPR has identified where these fundamental criteria may apply. For instance, in the health area, the proposed centralization of a number of public health programs could improve their effectiveness.

Yet, in many other areas, the reorganization plan lacks a strong rationale. As we discuss in more detail in "Section 2," among the problems we identify are:

- The reorganization proposal often lacks sufficient detail to evaluate whether a proposed consolidation would improve state government.
- In some cases, functions are proposed to be joined that are not particularly compatible.
- In some cases, existing departments are divided—with their component functions distributed among several new departments. This may create new coordination problems.
- By moving to mega-departments which would have wide-reaching responsibilities, the CPR risks making departments so large that they become unmanageable.
- The proposed reorganization would result in significant implementation costs, particularly in the short term. In many cases, the fiscal estimates of the CPR do not take into account these expenses.

Given these concerns, we recommend that the Legislature not focus its attention on the large-scale statewide reorganization that the CPR envisions. Instead, the Legislature should seek out more specific opportunities to pursue consolidations on a smaller scale. Many of the current problems that CPR identified could be solved with simpler solutions. A combination of limited consolidations and other types of solutions (such as improved leadership, policy changes, better coordination between departments, interagency agreements, and cross-departmental training) offers a better chance of improving the effectiveness of state government while limiting the risks involved.

### **Should the Scope of Reforms Be Broadened?**

The CPR's proposals encompass a broad range of issues. However, there are a number of fundamental issues that were not considered in the analysis. For example, while the CPR reorganization plan regroups and consolidates a vast number of existing functions of state government, the CPR does not examine the more fundamental question of which functions should continue to be provided by the state. In addition, although the CPR presents a modest realignment proposal, the report does not comprehensively address the state-local system of service delivery. Similarly, while including a single tax incentive proposal, the CPR does not examine California's overall system of state and local taxes.

Finally, while the plan proposes specific changes to the Constitution as it relates to transportation and a biennial budget, it does not address many other constitutional issues, such as the role of constitutional officers and agencies in the restructured government. The latter is a

significant consideration in the context of the CPR's proposed reorganizations. As noted in "Section 2" and "Section 3" of this report, the future roles of the Superintendent of Public Instruction and the BOE—two constitutionally created entities—are left somewhat undefined in the context of the restructured government proposed by the CPR.

Addressing these more fundamental issues may have been beyond the scope of what the CPR believed was its mission, especially given the relatively limited time it had to complete its review. However, the lack of reforms in these areas inherently limits the amount of improvement in governmental services that can be achieved through the CPR.

For example, while some of the CPR proposals may improve efficiency and coordination of state functions, citizens may continue to be faced with the fragmentation of services between state and local governments. Similarly, while the creation of a new tax commission may result in some added efficiencies in the collection and auditing of certain taxes, the exclusion of the BOE from the consolidation means that the state's two largest taxes—the personal income tax and sales tax—will continue to be administered by separate agencies. To address these issues, the Legislature may wish to broaden the scope of reforms it considers.

### **What Is Next?**

The release of the CPR is intended to be a first step in a dialog on governmental reform. Its specific proposals have not yet been embraced by the administration. Rather, the Governor has directed the CPR commission to hold public hearings to seek input on the report's recommendations.

Ultimately, the reorganization plan could be proposed by the Governor through the specific reorganization process provided for in state law (and discussed in "Section 2"). Some of the other recommendations—such as those requiring departments to develop performance measures—could be implemented administratively by the Governor. Other recommendations could be included in the Governor's 2005-06 or later budgets, or proposed through separate legislation.

Thus, while some of the 1,200 CPR proposals can be adopted administratively, many of them will require legislative approval in order to be implemented. The merits of each proposal would need to be weighed on its own. In "Section 3" we review some of the CPR's key proposals in major program areas and offer our initial comments on them. Some of the recurring issues raised by our analyses are:

- **More Details Needed.** While many of the more modest proposals are highly detailed, many major proposals are less so. Also, the fiscal estimates associated with many of the proposals

## SECTION 2: CPR REORGANIZATION

One of the major components of the CPR report is a reorganization of the state's departments, agencies, boards, and other entities. Below, we describe this reorganization plan and then provide some of our initial observations.

### PRINCIPLES OF THE CPR REORGANIZATION

The CPR report puts forth two principles that are at the center of its approach to reorganizing state entities:

- ***Programs Should Be Aligned by Function.*** The report attempts to combine entities that work in the same policy area or provide similar services. This approach aims to eliminate duplication and improve the performance of state programs.
- ***Administrative Services Should Be Consolidated.*** In addition, the report aims to unify support services within each new department such as human resources, legal affairs, and purchasing—with the goals of greater efficiencies and achieving “economies of scale.”

In addition to these principles, the report also emphasizes improving customer service and ensuring that the best and most effective practices of individual departments are used throughout state government.

### COMPONENTS OF THE REORGANIZATION

***Mega-Departments.*** Currently, the state is organized with both agencies and departments. Agencies generally perform policy-setting and

oversight roles in a particular policy area. Under an agency's supervision, departments implement programs. For instance, the Department of Financial Institutions (DFI) regulates banks and credit unions under the guidance of the Business, Transportation, and Housing Agency. The core of the CPR reorganization is the creation of 11 large, mega-departments. The proposed 11 departments are listed in Figure 3 (see next page). These mega-departments—called “departments” by CPR—would merge the policy-setting function of agencies with the program administration function of departments.

In most cases, these new departments would represent the merger of several existing departments. For instance, both DFI and the Department of Corporations would merge as a new Financial Services Division within the proposed Commerce and Consumer Protection Department. Other divisions within the same department would include most functions from existing departments such as the Department of Motor Vehicles (DMV) and the Department of Real Estate. In other cases, existing departments are divided—with their component functions distributed among several new departments. For example, functions from the Department of Fish and Game would be distributed to the Environmental Protection, Natural Resources, and Public Safety and Homeland Security Departments.

***Discontinuation of Many Boards and Commissions.*** The state has hundreds of boards, commissions, and task forces which serve a variety of roles—including administering grant programs, regulating industries, and providing policy advice. These entities generally are governed by a board appointed by the Gover-

nor, Legislature, or other state officials. Some board members receive full-time salaries while many others only receive reimbursements for their travel and other expenses. The CPR identified 339 existing boards, commissions, and task forces across state government. The report recommends discontinuing 117 of these entities, including the Air Resources Board, State Lands Commission, Energy Commission, State and Regional Water Quality Boards, Student Aid Commission, Victims Compensation and Government Claims Board, Board of Prison Terms, and Youth Authority Board. For the majority of these discontinuations, the CPR consolidation would move these entities' activities under one of the new mega-departments. In other words, the government activity would continue but be governed by a departmental secretary, rather than an independent board. On the other hand, the CPR would eliminate both the function and the entity in about four dozen cases. Most of these entities entirely eliminated provide policy advice to the state (such as the Rural Health Policy Council and the 911 Advisory Board) rather than administer programs. The report notes that the elimination of these advisory boards could

be replaced with ad-hoc advisors on an as-needed basis.

**Other New Entities.** In addition to the creation of the mega-departments, the CPR proposes to create several other new entities in state government, including:

- **Office of Management and Budget.** The state currently has a number of "control" agencies which provide policy and fiscal oversight to the state's other entities. For instance, the Department of Finance (DOF) is the state's fiscal and budget review department. Likewise, the Department of Personnel Administration (DPA) provides departments with services related to state employment. The

**Figure 3**  
**CPR's 11 Mega-Departments**

Proposed Department	Major Departments Transferred
Commerce and Consumer Protection	Financial Institutions, Consumer Affairs, Motor Vehicles
Correctional Services	Corrections, Youth Authority, Board of Prison Terms, Office of Inspector General
Education and Workforce Preparation	Community Colleges Chancellor, Board of Education, Student Aid Commission
Environmental Protection	Water Quality Control Boards, Air Resources Board, Pesticide Regulation
Food and Agriculture	Food and Agriculture
Health and Human Services	Health Services, Social Services, Mental Health, Developmental Services, Child Support
Infrastructure	Transportation, State Water Project, Energy Commission, Bay-Delta Authority
Labor and Economic Development	Industrial Relations, Employment Development
Natural Resources	Conservancies, Fish and Game, Forestry (Resource Management), Parks and Recreation
Public Safety and Homeland Security	Emergency Services, Highway Patrol, Forestry (Fire Protection)
Veterans Affairs	Veterans Affairs

CPR proposes to consolidate these types of entities into a single Office of Management and Budget (OMB). The OMB would be responsible for oversight on budgetary, state employment and retirement, technology, and regulatory matters. Functions from DOF, DPA, the state's data centers, Department of General Services, and the Office of Administrative Law would be transferred to the OMB.

- **Tax Commission.** The CPR proposes that the state's principal tax collection agencies be consolidated into the California Tax Commission. The commission would include components of the Franchise Tax Board, Employment Development Department, and DMV. The report, however, indicates that the Board of Equalization would be retained as an independent agency.

**Some Entities Largely Unaffected.** In some areas, the CPR proposes few, if any, changes to existing department structures. For instance, constitutional officers are left largely unaffected. In addition, the Military Department would remain an independent entity outside of the mega-department structure. The Departments of Food and Agriculture and Veterans Affairs would be elevated to mega-departments, but their roles and responsibilities would remain largely unchanged.

## IMPLEMENTATION

The report acknowledges that fully implementing its governmental reorganization is an "ambitious" undertaking. The report provides few details on a timeframe for implementation

but suggests the use of a centralized performance review team to coordinate any consolidations.

**The Reorganization Process.** State law provides a specific process for the Governor to propose reorganizations to the Legislature. Since 1968, various Governors have submitted 29 reorganization plans through this process. The Legislature approved 18 of these plans. Figure 4 (see next page) lists these plans, and the box (see pages 18-19) provides a historical perspective on reorganizing state government as it relates to the health and social services area.

Figure 5 (see page 15) provides a sample timeline for the reorganization process. In total, a reorganization plan can take 90 days to become effective. Among the key components of the process are:

- **Goals.** State law encourages the Governor to seek reorganizations which reduce expenditures, increase efficiency, and eliminate duplications of effort.
- **Little Hoover Commission.** As part of the process, the Governor submits any plans to the Little Hoover Commission for review and public hearings. The Commission has 60 days to report any findings to the Governor and the Legislature.
- **Civil Service Transition.** Plans must provide for the transfer of existing state employees from their original department to a new entity carrying out the same function.
- **Legislative Review.** The statute provides for a 60-day legislative review period and calls for policy committees in each house to issue a report on a plan. A plan



Figure 4

## Previous Executive Branch Reorganization Proposals

Year	Governor	Description	Outcome
1968	Reagan	<ul style="list-style-type: none"> <li>Establish four agencies: Business and Transportation, Resources, Human Relations, and Agriculture and Services.</li> </ul>	Approved
1969	Reagan	<ul style="list-style-type: none"> <li>Eliminate various boards and commissions and transfer some functions to other departments.</li> </ul>	Approved
		<ul style="list-style-type: none"> <li>Change the names of the Department of Harbors and Waterways and the Harbors and Watercraft Commission.</li> </ul>	Approved
		<ul style="list-style-type: none"> <li>Change staff titles and organization names in the Department of Professional and Vocational Standards (DPVS).</li> </ul>	Approved
1970	Reagan	<ul style="list-style-type: none"> <li>Create the Department of Health and consolidate three departments.</li> </ul>	Approved
		<ul style="list-style-type: none"> <li>Change DVPS to the Department of Consumer Affairs.</li> </ul>	Approved
1971	Reagan	<ul style="list-style-type: none"> <li>Change the names of some of the water quality control boards.</li> </ul>	Failed
		<ul style="list-style-type: none"> <li>Eliminate the State Board of Drycleaners.</li> </ul>	Failed
		<ul style="list-style-type: none"> <li>Change the name of the Resources Agency to Environment and Resources Agency and create the Department of Environmental Protection.</li> </ul>	Failed
1975	Brown	<ul style="list-style-type: none"> <li>Consolidate air, water quality, and solid waste programs into the Environmental Quality Agency.</li> </ul>	Failed
		<ul style="list-style-type: none"> <li>Consolidate the Divisions of Labor Law Enforcement and Industrial Welfare into the Department of Industrial Relations (DIR).</li> </ul>	Approved
1976	Brown	<ul style="list-style-type: none"> <li>Consolidate air, water quality, and solid waste programs into the Environmental Quality Agency.</li> </ul>	Failed
		<ul style="list-style-type: none"> <li>Consolidate the Office of Alcoholism with the Department of Alcoholic Beverage Control (ABC) and transfer ABC to the Health and Welfare Agency.</li> </ul>	Failed
1977	Brown	<ul style="list-style-type: none"> <li>Transfer functions from the Office of Narcotics and Drug Abuse to a new Department of Health Services (DHS) and create an Advisory Council on Narcotics and Drug Abuse.</li> </ul>	Approved
1978	Brown	<ul style="list-style-type: none"> <li>Transfer industrial safety and occupational health functions from DHS to DIR.</li> </ul>	Approved
1979	Brown	<ul style="list-style-type: none"> <li>Transfer employment functions from DIR to State and Consumer Services Agency and create the Department of Fair Employment and Housing.</li> </ul>	Approved
		<ul style="list-style-type: none"> <li>Create new central agency for personnel administration.</li> </ul>	Withdrawn
		<ul style="list-style-type: none"> <li>Create the Youth and Adult Correctional Agency.</li> </ul>	Approved
1980	Brown	<ul style="list-style-type: none"> <li>Transfer mobilehome functions to the Department of Housing and Community Development.</li> </ul>	Approved
1981	Brown	<ul style="list-style-type: none"> <li>Create the Department of Personnel Administration (DPA).</li> </ul>	Approved
1984	Deukmejian	<ul style="list-style-type: none"> <li>Transfer position classification functions from State Personnel Board to DPA.</li> </ul>	Approved
1985	Deukmejian	<ul style="list-style-type: none"> <li>Create the Department of Waste Management, State Waste Commission, and three regional waste boards.</li> </ul>	Failed
		<ul style="list-style-type: none"> <li>Create a cabinet-level Department of Waste Management.</li> </ul>	Failed
1991	Wilson	<ul style="list-style-type: none"> <li>Create the Environmental Protection Agency and transfer several departments and functions into the new agency.</li> </ul>	Approved
1995	Wilson	<ul style="list-style-type: none"> <li>Reorganize the California Energy Commission.</li> </ul>	Failed
		<ul style="list-style-type: none"> <li>Consolidate the State Police with the California Highway Patrol.</li> </ul>	Approved
		<ul style="list-style-type: none"> <li>Consolidate the State Fire Marshal with the Department of Forestry and Fire Protection.</li> </ul>	Approved
1998	Wilson	<ul style="list-style-type: none"> <li>Eliminate the Department of Corporations, create the Department of Managed Care, and rename the Department of Financial Institutions.</li> </ul>	Failed
2002	Davis	<ul style="list-style-type: none"> <li>Create the California Labor and Workforce Development Agency and transfer several departments into the new agency.</li> </ul>	Approved

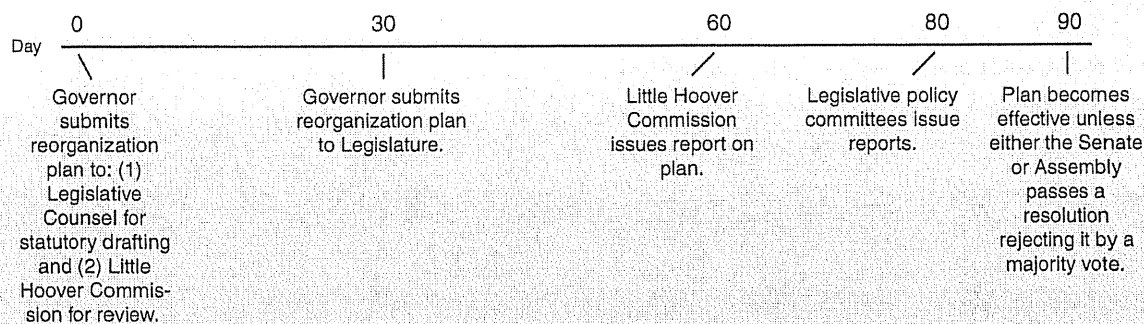
goes into effect after the 60-day period unless the Legislature takes action to reject it. Either house can reject a plan by passing a resolution by a majority vote. The vote is “yes” or “no”—the plan cannot be amended by the Legislature.

## LAO COMMENTS/KEY CONSIDERATIONS

In reviewing the CPR reorganization plan, there are many considerations for the Legislature. Figure 6 (see next page) lists some of the criteria that we would suggest the Legislature use in evaluating any proposed reorganization. Below, we outline some additional considerations specific to the CPR and offer our initial comments on the proposed reorganization. Later in this report, we provide more program-specific comments on some of the more significant components of the reorganization.

**Opportunities for Greater Efficiencies Exist, But More Details Needed.** Consistent with the CPR, we believe that many aspects of state government’s organization can be improved. Our initial review of the CPR’s consolidation proposal finds that the report has correctly identified some good candidates for consolidation. For instance, in the health area, the proposed centralization of a number of public health programs could improve their effectiveness. Likewise, the merger of the Departments of Mental Health and Alcohol and Drug Programs could allow the state to better coordinate services to those dually diagnosed patients who are currently served by both departments. At this stage, however, the reorganization proposal often lacks sufficient detail to evaluate whether a proposed consolidation would improve state government. Until the full details of a proposed reorganization are put forth, drawing conclusions about many of CPR’s suggestions is difficult.

Figure 5  
Timeline for Reorganization Plans<sup>a</sup>



<sup>a</sup> Pursuant to Government Code Sections 8523 and 12080 through 12081.2.

**Reshuffle or Change the Scope of Government?** For the most part, the CPR reorganization is a reshuffling of existing state activities. Examining the organization of government services is a necessary and important task. It is not always clear, however, that CPR asked a more fundamental question—*should the state continue to perform its current functions and provide its current services?* As such, the reorganization plan may have missed the opportunity to rethink what level of government should be responsible for each service or if certain government services are still necessary.

**Is Changing the Organizational Structure the Solution?** As noted above, some of the proposed consolidations offer promise to improve the quality of government services. In other cases, there may be more simple solutions to a massive reorganization. For instance, to increase coordination between two departments, interagency agreements could be developed in place of a full merger. In addition, the administration could use cross-departmental training to spread those management and other practices it has identified as particularly effective.

**Possible Unintended Consequences.** We recognize that any proposed overhaul of state government on the scale of CPR would invite many questions regarding why certain entities are proposed to be placed in one department versus another. In many instances, reasonable minds can differ over in which location a program would be most effective. That said, our initial review raised some concerns with a number of CPR's choices. The full implementation of the CPR reorganization could lead to some unintended negative consequences. The examples noted below are illustrative that the

**Figure 6**  
**Criteria for Considering the Merits of a Reorganization Proposal**

As the Legislature considers the CPR and other future reorganization proposals, it may want to consider the following questions to help determine a proposal's merits.

- ✓ **Effectiveness.** Would the reorganization make the programs more effective? Would the public receive better services as a result of the reorganization?
- ✓ **Accountability.** In the current and the new structures, who is responsible for the program's outcomes? Is the new structure likely to improve program accountability?
- ✓ **Oversight.** Will the new structure provide for effective, independent oversight by the executive and legislative branches?
- ✓ **Efficiency.** Would the reorganization improve the use of limited resources? Are there reasons to believe that the programs can be administered more efficiently? Do existing programs exhibit duplication of effort or lack of coordination?
- ✓ **Other Options.** What is the problem that is being addressed? Is a reorganization the best approach to solve that problem? Could improved leadership, changes in policy, better coordination between departments, or other solutions provide a better result?
- ✓ **Implementation.** Do the expected long-term benefits outweigh the short-term costs and disruptions from the implementation of the reorganization? Will the public experience a disruption in services? Does the implementation need to occur now, or can it be phased in over time?

Legislature will need to carefully examine each consolidation component in detail.

- ***Functions May Not Be Compatible.*** In its reshuffling of state departments, the CPR in some cases may have joined functions that are not particularly compatible. For example, the CALFED Bay-Delta Program (overseen by the California Bay-Delta Authority) is designed to approach the Delta from a variety of resource protection perspectives. By moving the authority from the current Resources Agency to the new Infrastructure Department, the CPR could shift the program's focus towards water infrastructure issues and away from other resources issues. Such a shift would represent a significant policy choice for the Legislature. In addition, the CPR proposes to integrate the Department of Managed Health Care (DMHC) with other health programs within the new Health and Human Services Department. These other health programs contract for services with health maintenance organizations (HMOs). These are the same HMO entities that the DMHC regulates. By having a single department regulate and conduct business with HMOs, there is a potential for conflicting goals.
- ***Possibility of Creating New Coordination Problems.*** In some cases, the CPR proposes to divide current departments and send their various components to multiple mega-departments. In doing so, the CPR aims to better align various functions. The splintering of existing departments, however, could create new

coordination problems. For example, the DMV's investigators, who focus on identity theft and fraud, would be sent to the Public Safety and Homeland Security Department and separated from the rest of the department. As a result, these investigators could become disconnected from the DMV field offices that can often help prevent such problems from developing in the first place.

- ***Mega-Departments May Become Unmanageable.*** By moving to mega-departments which would have wide-reaching responsibilities, the CPR risks making departments so large that they become unmanageable. In particular, some of the mega-departments would have such expansive goals, missions, and "span of control" that they may find it difficult to administer their day-to-day responsibilities.

***Missed Opportunities.*** While the CPR reorganization affects most state entities, the Legislature should not consider the plan an exhaustive list of possibilities. In some areas, there appears to be additional room for consolidations to improve state government. For instance, by keeping the Department of Veterans Affairs outside of most of the reorganization plan, CPR may not have considered the option of merging the veterans' homes with the state's other 24-hour care facilities. Similarly, CPR aimed to consolidate all education programs within the Education and Workforce Preparation Department. Yet, the CPR maintains the existing roles and responsibilities of the Superintendent of Public Instruction (SPI). Maintaining the overlapping responsibilities of the SPI and other

education administrators represents a missed opportunity to repair a central governance issue in K-12 education.

***Considering the Merits of Independent Boards.*** The CPR reorganization emphasizes a transition away from independent boards and commissions and towards executive program management. In evaluating these types of decisions, the Legislature should consider both the benefits and drawbacks regarding the use of independent boards. Among the benefits of independent boards are:

- Boards can include experts in the policy field and offer a variety of policy perspectives.
- Boards may offer more independent, forward-thinking proposals than might be typical from a state department.
- Board meetings are more open to the public than the department decision-making process.

## REORGANIZATIONS: A HISTORICAL PERSPECTIVE

### Reorganizations: Then and Now

Reorganizing state government by consolidating departments, or breaking them apart, is not new. One of the major differences between prior reorganizations and the CPR proposal is its sheer scope. Previous reorganization proposals have focused on a limited number of related departments and programs. These have included, for example, combining labor and employment departments under one agency in 2002; placing various environmental departments under one agency in 1991; and merging health and certain social services programs into a single department in 1970. The CPR proposal, by contrast, envisions a reorganization of the entire state government, involving virtually every state department and generally consolidating them into larger state entities.

### Health and Social Services Experience

***Consolidation of Departments in 1973.*** The CPR's proposal to reorganize health and social services departments into one mega-department is similar—but larger in scope—to one adopted by the Legislature and then subsequently disbanded in the late 1970s. In 1970, Governor Reagan proposed the creation of a unified Department of Health in order to improve the integration of health and related programs, reduce program fragmentation, and further program coordination. In submitting his reorganization plan to the Legislature, Governor Reagan noted: "The Plan that I am submitting to you will enable us to eliminate much of the fragmentation that exists in such fields as mental retardation, alcoholism, and facilities licensing. . . . It will encourage integration of health and related services, replacing the present system under which the consumer must find his way through a maze of uncoordinated services."

## AN LAO REPORT

- The Legislature often has the ability to oversee a board's management through the nomination approval process. In other cases (such as the High Speed Rail Authority), the Legislature has the authority to appoint board members directly.

On the other hand, independent boards also may have some disadvantages, including:

- Boards may cost more to operate, due to the salaries and associated costs of board members.
- A department can often shuffle resources among multiple programs as dictated by workload. In contrast, since they administer individual programs, boards typically do not have the same degree of flexibility.
- Boards may have difficulty in coordinating their work with state departments when their program responsibilities overlap. When programs all report to the same director under a single department, coordination may improve.

In response to Governor Reagan's proposal, the Department of Health was created effective July 1, 1973 by combining the former Departments of Mental Hygiene, Public Health, and Health Care Services together with the social service functions of the Department of Social Welfare. Among other programs, the new department was responsible for: Medi-Cal, public health, mental health, drug and alcohol, developmental disabilities, licensing and certification of health facilities, and various social services for welfare recipients. (The department was not responsible for providing welfare cash grants, which was assigned to a new Department of Benefit Payments.)

**Separation of Departments in 1978.** For a variety of reasons, the unified Department of Health was unable to fulfill its promise, leading to the enactment of Chapter 1252, Statutes of 1977 (SB 363, Gregorio), which created five new departments and one new office. In enacting Chapter 1252, the Legislature declared that it was separating the Department of Health into distinct departments in order "to increase individual program visibility, to improve program policy direction and to provide needed public accountability." The new departments were Health Services, Social Services, Mental Health, Developmental Disabilities, and Alcohol and Drug Abuse. The new office was the Office of Statewide Health Planning and Development.

**Implications for CPR Proposal.** The fact that a large consolidated department did not work the last time around does not mean that the current CPR proposal to establish a consolidated Health and Human Services Department should be rejected automatically. Rather, it provides a cautionary warning that reminds the Legislature and administration that they will need to (1) determine whether there are any lessons to be learned from the state's previous experience, and (2) assess how the new proposed reorganization meets their criteria for improving the delivery of state services.

**Unknown Implementation Costs.** The proposed reorganization, if implemented, would result in significant implementation costs, particularly in the short term. In many cases, the fiscal estimates of the CPR do not take into account these expenses, such as the costs for integrating data and budget systems and relocating offices. As an example, the recent closing of the Technology, Trade, and Commerce Agency cost millions of dollars in shutdown expenses—

nullifying most of the savings for the first year. While these types of implementation costs typically do not provide sufficient justification on their own to dismiss a proposed reorganization, the Legislature should be aware of them in making its decisions. This is particularly true in the cases when the recommendations are being implemented primarily to generate budget savings.

## SECTION 3: REVIEW OF KEY PROPOSALS BY PROGRAM AREA

This section discusses key CPR proposals in major program areas. Given the number of recommendations included in the CPR report, we have identified the recommendation by the number used in the report to the Governor (such as GG 05 referring to General Government recommendation 5) to assist the reader. In the case of criminal justice, CPR has incorporated the recommendations of the Corrections Independent Review Panel (CIRP) and we have referenced chapter numbers in the CIRP as appropriate. Following each programmatic discussion is a figure summarizing the fiscal effect, as estimated by CPR, for the key proposals discussed. When the CPR could not make an estimate, we have adopted its nomenclature of “cannot be estimated” (CBE) for consistency purposes. We offer initial comments on the major proposals to assist legislative consideration of these proposals.

### K-12 EDUCATION

The CPR makes 14 recommendations that affect K-12 education. These recommendations

cover a variety of policy areas. Seven of the fourteen recommendations seek changes to help the state department or school districts operate in a more cost-effective manner. Four recommendations propose specific K-12 policies that are designed to help districts meet student needs more effectively. The remaining three recommendations would make structural changes to the roles and responsibilities of state and county educational agencies.

***Restructure the Role of the Secretary for Education.*** The CPR proposes to expand the role of the Secretary for Education by assigning it policy and coordinating responsibilities as the head of a new Department of Education and Workforce Preparation (ETV 01). The recommendation would place six existing state departments under the Secretary, including the State Department of Education, California Community Colleges (CCC), California Student Aid Commission (CSAC), and Commission on Teacher Credentialing. The Secretary would focus on developing educational policy (pre-kindergarten through college), implementing higher educa-





**Summary  
Fiscal Impact Table**  
(Dollars Displayed in Thousands)

Chapter	2004-05		2005-06		2006-07		2007-08		2008-09		5-Year Cum. Total All Funds
	Savings(Costs)/Revenue General Fund	Other Funds	Savings(Costs)/Revenue General Fund	Other Funds	Savings(Costs)/Revenue General Fund	Other Funds	Savings(Costs)/Revenue General Fund	Other Funds	Savings(Costs)/Revenue General Fund	Other Funds	
General Government	\$270,250	\$49,918	\$300,613	\$1,523,087	\$1,477,301	\$2,342,280	\$278,045	\$2,855,642	\$233,773	\$3,107,061	\$12,437,970
Health & Human Services	\$815	\$1,139	\$290,285	\$413,594	\$608,557	\$838,372	\$574,876	\$789,606	\$611,270	\$789,606	\$4,918,120
Education, Training and Volunteerism	\$133,876	\$54,554	\$450,626	\$394,712	\$454,544	\$473,360	\$497,712	\$543,922	\$500,880	\$619,562	\$4,123,748
Infrastructure	\$56,087	\$24,388	\$111,700	\$118,740	\$173,000	\$679,976	\$228,500	\$861,276	\$245,500	\$864,076	\$3,363,243
Resource Conservation and Environmental Protection	\$2,204	\$5,939	\$29,107	\$147,264	\$9,849	\$45,133	\$9,906	\$45,133	\$9,963	\$45,133	\$349,631
Public Safety	\$0	\$1,200	\$0	\$1,600	\$0	\$1,600	\$0	\$1,600	\$0	\$1,600	\$7,600
Statewide Operations	\$218,132	\$222,626	\$517,831	\$506,784	\$713,994	\$699,468	\$835,325	\$817,941	\$946,161	\$927,506	\$6,405,768
Grand Total	\$681,364	\$359,764	\$1,700,162	\$3,105,781	\$3,437,245	\$5,080,189	\$2,424,364	\$5,915,120	\$2,547,547	\$6,354,544	\$31,606,080

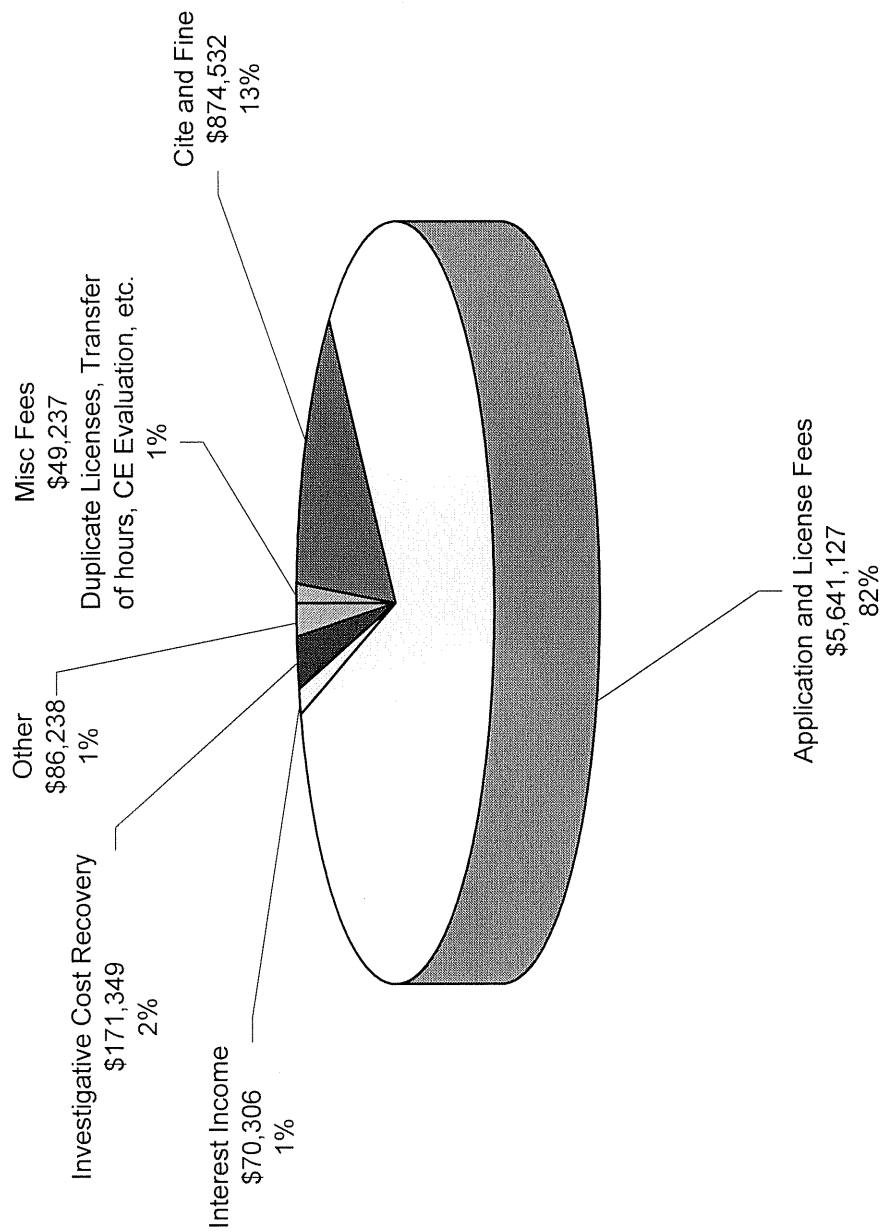
The amounts shown for each year in the above chart reflect the total change for that year from Fiscal Year 2003-04



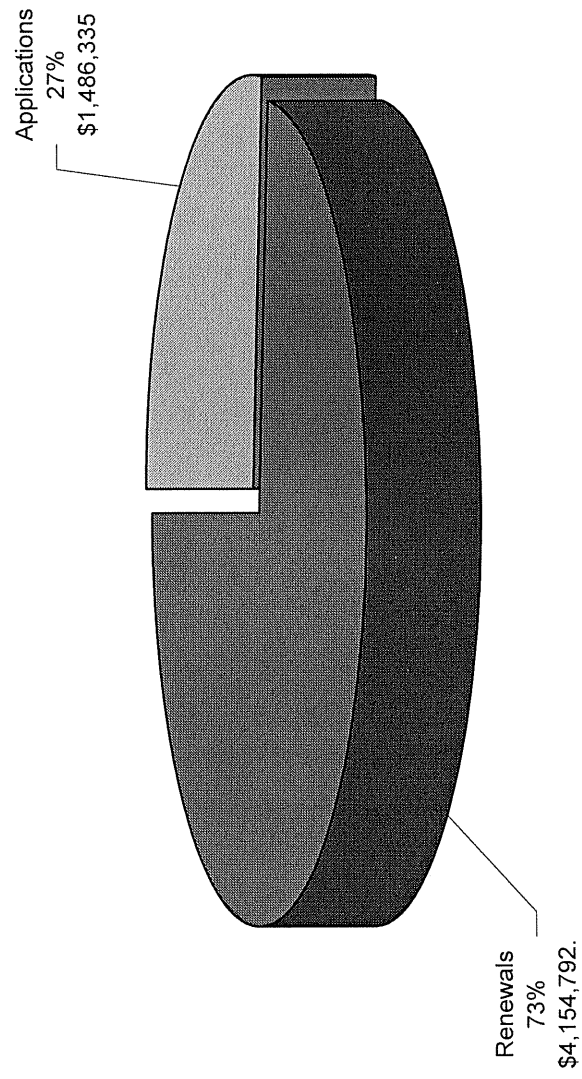
# Attachment 3

*Revenue Collected 2003/04*

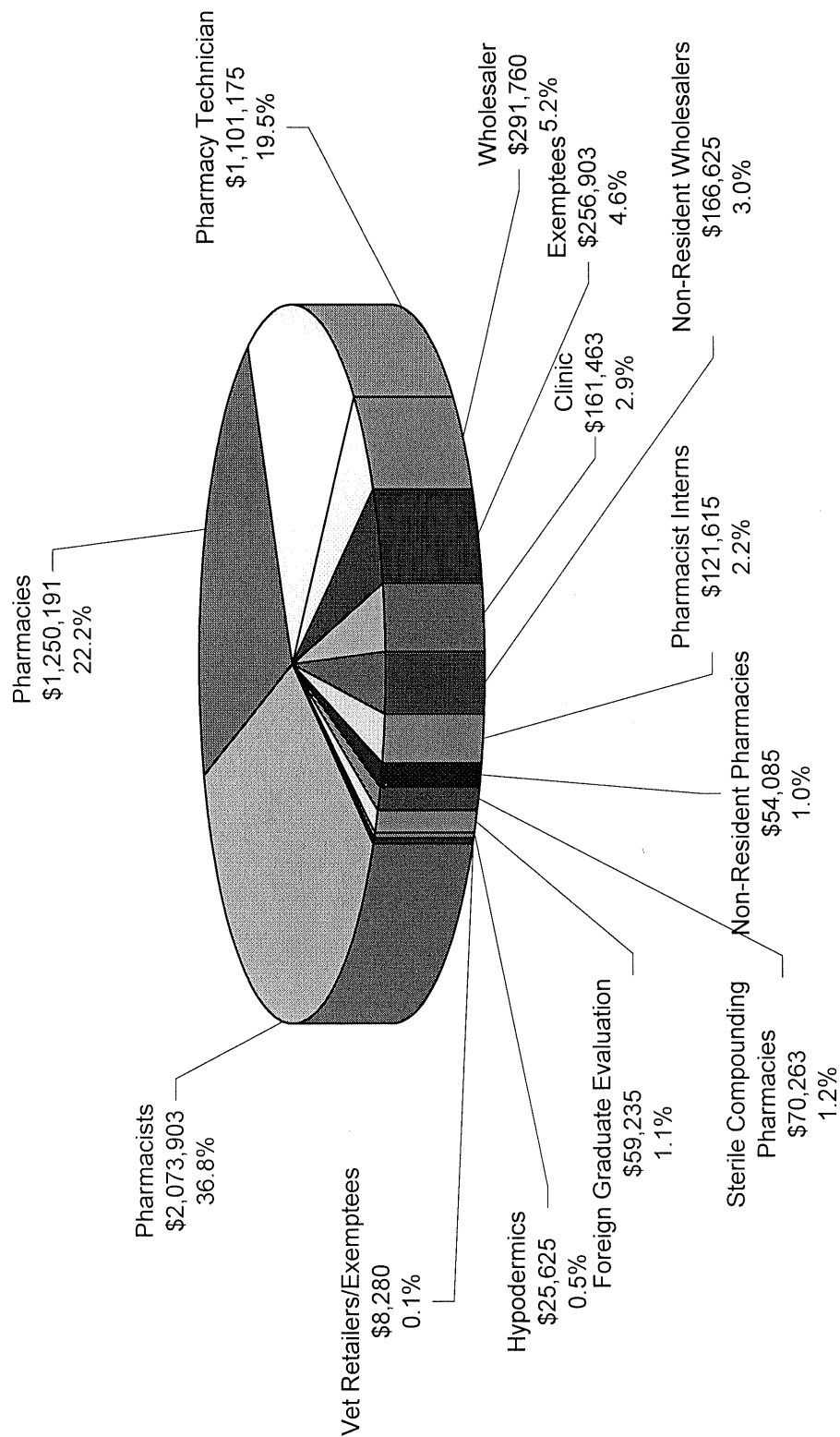
**Chart 1**  
**Fiscal Year 2003/04**  
**Origin of Revenue**  
**\$6,892,789**



**Chart 2**  
**Fiscal Year 2003/04**  
**Application vs Renewal Total Fees Collected**  
**\$5,641,127**



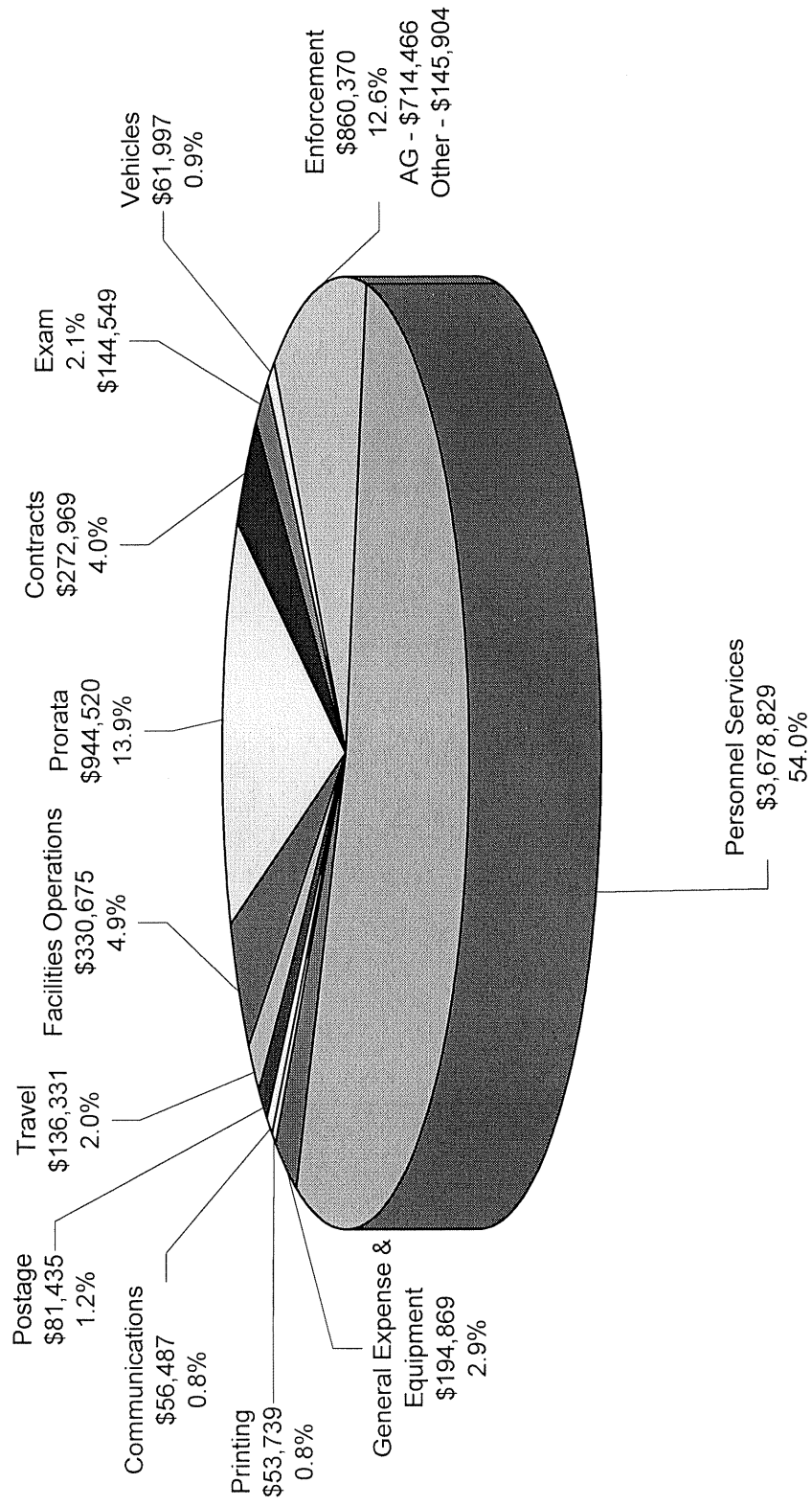
**Chart 3**  
**Fiscal Year 2003/04**  
**Revenue by Program**



# Attachment 4

*Actual Expenditures 2003/04*

**Chart 4**  
**2003/04 Fiscal Year**  
**Expenditures**  
**\$6,816,770**



# Attachment 5

*Board of Pharmacy Fund Condition*

**BOARD OF PHARMACY**  
**Analysis of Fund Condition**

FUND 0767

	FINAL 2002-03	FINAL 2003-04	2004-05	2005-06	2006-07
BEGINNING RESERVE, JULY 1	10,810,963	4,402,422	4,873,696	2,957,983	856,755
Prior Year Adjustment	116,669	385,122			
<b>TOTAL ADJUSTED RESERVES</b>	<b>10,927,633</b>	<b>4,787,544</b>	<b>4,873,696</b>	2,957,983	856,755
REVENUE					
License Fees	5,915,391	6,580,205	5,346,813	5,346,813	5,346,813
Interest	131,981	70,306	97,474	59,160	17,135
<b>TOTAL REVENUE</b>	<b>6,047,373</b>	<b>6,650,510</b>	<b>5,444,287</b>	<b>5,405,973</b>	<b>5,363,948</b>
BUDGET ACT TRANSFERS:					
91/92 General Fund Return					
02/03 6 mil GL loan	(6,000,000)				
<b>TOTAL TRANSFERS</b>	<b>(6,000,000)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL REV. AND TRANSFERS</b>	<b>47,373</b>	<b>6,650,510</b>	<b>5,444,287</b>	<b>5,405,973</b>	<b>5,363,948</b>
<b>TOTAL RESOURCES</b>	<b>10,975,005</b>	<b>11,438,054</b>	<b>10,317,983</b>	<b>8,363,955</b>	<b>6,220,703</b>
EXPENDITURES					
Budget expenditures (net reimb. Eff. 04/05)	6,899,281	6,816,767	7,360,000	7,507,200	7,657,344
Reimbursement	(326,828)	(252,538)			
SCO charge	130				
Century Change		129			
<b>TOTAL EXPENDITURES</b>	<b>6,572,583</b>	<b>6,564,358</b>	<b>7,360,000</b>	<b>7,507,200</b>	<b>7,657,344</b>
<b>RESERVE, JUNE 30</b>	<b>4,402,422</b>	<b>4,873,696</b>	<b>2,957,983</b>	<b>856,755</b>	<b>(1,436,641)</b>
MONTHS IN RESERVE	8.0	7.9	4.7	1.3	(2.3)

NOTES:

1. FY 2002/03 AND 2003/04 TIE TO SCO REPORT



# Attachment 6

*Board of Pharmacy Expenditures  
for Board Member Reimbursement  
and Travel*

This chart will be distributed at the Board Meeting.

# Attachment A

## *Minutes of the Organizational Development Committee*

*September 21, 2004*



**California State Board of Pharmacy**

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STATE AND CONSUMERS AFFAIRS AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

ARNOLD SCHWARZENEGGER, GOVERNOR

**ORGANIZATIONAL DEVELOPMENT COMMITTEE**

**September 21, 2004**

**Meeting Minutes**

**Board of Pharmacy**

**400 R Street, Suite 4070**

**Sacramento, CA 95814**

**Public Meeting**

**Present:**     **John Tilley, Chairperson**  
                  **Stan Goldenberg, Member**  
                  **Patricia Harris, Executive Officer**  
                  **Virginia Herold, Assistant Executive Officer**

**Call to Order**

Chairperson Tilley called the meeting to order at 1:40 p.m.

**Discussion: How the Board of Pharmacy Can Improve and Facilitate Communications with the Public and Its Licensees**

At the board's July Meeting, Board President Goldenberg stated that one of the priorities for his term is to improve the communication of the board with its licensees and with the public. President Goldenberg stated that his goal is to obtain diverse opinions from as wide a cross section as possible on matters before the board for policy deliberations. To this end, each of the board's committees will hold a public meeting before the October board meeting with this topic listed as a discussion item. The goal is to establish a dialogue with stakeholders on improving communication, and to bring these to the next board meeting.

Chairperson Tilley reviewed some of the board's current communication venues with the public and with licensees:

- Quarterly board meetings, where public input for each agenda area has public input scheduled as a component.
- At least 15 additional public meetings of committees annually, where an agenda is mailed and posted on the board's Web site 10 days before a meeting.
- Web site information
- Consumer education materials
- Co-sponsorship of public education events (e.g., 2003's Hot Topic Seminars with the UCSF School of Pharmacy)
- Attendance/staffing at public education fairs and events

- A subscriber e-mail notification system about major new information added to the board's site (about to be implemented)
- *The Script* newsletter
- Presentations by board members and supervising inspectors of the board's CE outreach programs to groups of pharmacists, typically at professional meetings (at least 35 presentations were provided during 2003/04)
- Attendance and staffing of information booths at major educational fairs hosted by the major pharmacist associations
- In rare cases, letters are mailed directly to licensees advising them about major changes in programs (for example, changes in wholesaler requirements or foreign graduate evaluations)
- *Health Notes*, a health monograph developed by the board in a particular area that contains current drug treatment modalities, and which provides continuing education for pharmacists in subjects of importance to the board
- Inspections (2,582 inspections were conducted during 2003/04)
- Written, faxed and telephone inquiries directly to the board
- Surveys of all complainants following closure of their complaints

President Goldenberg led a discussion on how to increase attendance and participation at board meetings and at committee meetings. He noted that only three individuals (including one board member) were in the audience of this meeting.

Ideas included inviting local chapters of pharmacist associations to encourage their members to attend meetings in their area, to work with the schools to foster attendance by pharmacy students, or to award pharmacists with acknowledgments for significant achievements for years of service. Also, the committee noted that scheduling controversial topics for discussion (such as fee increases) would likely increase the interest in attending meetings by individuals who are otherwise busy.

Other agencies, such as the local Area Agency on Aging, AARP, Senior Outreach, Kiwanis and Rotary organizations may be interested in having their members attend our board meetings where agenda items of interest are scheduled for discussion. The board has not contacted these groups in the past to notify them when a board meeting is scheduled in their community.

President Goldenberg indicated that he will pursue some of these ideas for future board meetings in hopes of securing greater attendance and participation at board meetings and committee meetings.

### **Discussion: California Performance Review – A Proposal to Restructure State Government and its Proposal for the Board of Pharmacy**

The Governor's proposal to restructure state government was released at the beginning of August. His plan is detailed in a 2,547-page report, developed by the California Performance Review, a group of 275 "specially appointed state employees, administrative officials and outside consultants" that was charged to overhaul state

government into a more logical and less costly organization. The CPR states that its reorganization will achieve \$32 billion in savings over five years.

Eight public hearings have been scheduled to collect information from the public. The restructuring would eliminate 118 of 339 boards and commissions, as well as the Department of Consumer Affairs. The healing arts licensing boards of the department would be merged into a new Department of Health and Human Services, this includes the Board of Pharmacy. Most other regulatory boards in the department today have been targeted for elimination. The board's fund would be combined with the special funds of other boards merged into the new department.

The committee discussed whether it should prepare comments to submit to the commission or Governor on this restructuring plan. The committee decided it was premature at this time to submit comments until a more definitive plan or timeline is in place.

### **Budget Update and Report:**

#### ***1. 2004/05 and Future Year Budgets***

The state's budget for this fiscal year was approved by the Governor on July 31. The state's fiscal year runs from July 1, 2004 through June 30, 2005.

The board's budget is essentially the same as it was last fiscal year with the exception of funding for the AG, which was increased due to the increased hourly fee charges.

- ***Revenue Projected: \$5,444,287***

The board's revenue for the year is projected to be comprised of \$5,346,813 in licensing fees (98.2 percent) and \$97,474 in interest (1.8 percent). The revenue estimate projected from fees is conservative and traditionally is about 10 percent less than actual revenue will be. Not included in this figure is any money collected from cost recovery or citations and fines.

- ***Expenditures Projected: \$7,360,000***

The board's maximum expenditure authority for the year is \$7.36 million. Personnel is the largest expenditure: \$3,686,301 or 50 percent of the board's budget.

- ***Redirections and Program Efficiencies to Offset Budget and Staffing Shortages***

At the beginning of each month, the board submits a backlog report to the administration. This report reflects the status of the board's licensing and enforcement activities with respect to processing times. The board's priorities are to investigate consumer complaints and process applications.

One of the greatest hurdles the board faces is responding to telephone inquiries. The board lacks even one full-time receptionist (both of the receptionist positions we had were lost due to budget restrictions and hiring freezes). The one part-time individual we have performs this function but works at most only three days weekly. As a result, all staff are assigned to take turns at answering the telephones. Status inquiries are not a priority and callers seeking assistance to be walked through the application process are directed to the Web site instead.

This month, the board will implement its subscriber e-mail system that will allow interested parties to list their e-mail address with the board, and then be notified of new items posted on the board's Web site, which they can then download. This system has the potential to increase communication with licensees and others at virtually no cost to the board. Someday it could eliminate publishing and postage costs for newsletters and *Health Notes*. It would allow the board to advise licensees of new law changes, new regulations, product recalls, and even action items from board meetings. The Department of Consumer Affairs is purchasing this software (at our suggestion) and we will be the first agency to use it. The department plans to offer this software to other boards in the department as well.

## **2. Attorney General's Office Hourly Rates Increase**

The Attorney General's Office rates increased twice at the end of the last fiscal year (April 1 and after June 30) to a total of \$139 per hour for attorneys and \$91 for legal assistants. This year the board received an augmentation in its AG budget of \$216,034, to accommodate this rate increase. The board's total budget for the AG this year is \$996,839 (or 13.5 percent of the board's budget).

## **3. Closure Report: Budget Year 2003/04**

### **▪ Actual Revenue Collected: \$6,892,789**

The board's revenue for last year was comprised of \$5,641,127 in licensing fees, \$70,306 in interest income, \$874,532 in citation revenue, and \$172,349 in cost recovery.

The committee reviewed various displays of the origin of revenue collected during the year. This displays will be provided to the board during the board meeting.

### **▪ Expenditures for 2003/04 -- \$6,816,770**

The committee reviewed program expenditures for the year. The board's largest expenditure was for personnel services (54 percent of all expenditures), which actually exceeded the budgeted amount by \$30,580. This is even more significant since salary expenditures were not made for several inspectors and two managers during part or all of the year who were on parental leave. Personnel services expenses are tracked closely by staff for this reason.

Postage has been under-funded in prior years. During 2003/04 to reduce this expense, the board stopped mailing applications and newsletters to pharmacists. Despite these steps, the board still spent nearly \$19,000 more in postage than budgeted (30 percent more).

The board did not spend all of its budgeted amounts in other programs areas (notably printing), which compensates for the over-expenditures in certain program areas.

#### **4. Board Fund Condition**

The committee reviewed the board's fund condition. During this fiscal year, the board is projected to spend \$1,915,713 more than it will collect as revenue. Any difference between revenue and expenditures will come from the board's fund. Because the board is spending more than it collects in revenue, the board's fund projects a declining balance over the next three years.

- 2004-05: The board is projected to end this fiscal year with a reserve of 4.7 months of expenditures
- 2005-06: The reserve decreases to 1.3 months at the end of the year (June 30, 2006)
- 2006-07: A deficit of 2.3 months is projected (June 30, 2007)

These figures indicate that repayment of the \$6 million loan borrowed by the state during 2002/03 will need to begin during mid to late 2005-06.

Note: last year (2003/04), the board spent only slightly less than it made in revenue (\$76,000 less). However, the board collected more than \$1 million in fines and cost recovery last year, and spent \$350,000 less than authorized.

#### **5. Relocation of the Department of Consumer Affairs**

The lease for the building housing the main portion of the Department of Consumer Affairs, including the Sacramento office of this board, will end late in 2004. Lease negotiations have not reduced the rent desired by the current building's landlord, and the department is likely to move to a new location in South Natomas (the original Arco Arena), where the rent is less. This location is about 8 miles north of our current location. If these arrangements are finalized, the board will have to move sometime during 2005. No lease has yet been signed for any space. However, the new building's owner has promised to pay for the purchase and installation of new systems furniture as well as utilities and janitorial service.

#### **Personnel Update and Report:**

##### **Vacancies:**

The hiring freeze in place since late 2001 expired July 1, 2004.



Ms. Herold stated that recent budget instructions from the Department of Finance (released in what is known as a "Budget Letter") seeming would have allowed the board to reinstate four positions lost during July 2002-03, when there was a hiring freeze and the board could not fill positions. However, the Department of Finance has narrowly interpreted this policy and the board restore positions it has lost before 2003/04.

The board has promoted three board employees, and converted a fourth individual to a 75 percent of a full time position from her current 50 percent level. Two seasonal employees have been hired as part-time employees to perform basic clerical functions, and the board has rehired our newsletter editor as a retired annuitant. The board will have to absorb the expense of these salaries.

At the beginning of September, part-time Receptionist Denise Wong transferred to a full time position in the Department of Health Services. Ms. Wong worked for the board for approximately five years. This leaves the board with one part-time receptionist. Staff will fill in at the front desk to provide receptionist duties.

The board is seeking to fill two vacancies:

- An inspector position
- A cashier position

The board has recruited for the inspector position, but cannot find an applicant with the qualifications needed by the board. Instead, the board will need to create a new list of eligible pharmacist candidates. The board has requested that the Department of Consumer Affairs conduct a new civil service examination for this classification; we are awaiting a date for the scheduling of this examination.

The board itself has two public board member positions vacant; these positions were created January 1, 2004, and are Governor appointments.

The board has two staff on parental leave.

### **Comments from the Audience:**

Chairperson Tilley asked the three people in the audience of this public meeting if there were additional matters they would like to discuss. Their comments had been sought specifically under each item of business during the meeting. There were none.

### **Adjournment:**

There being no additional business, Chairperson Tilley adjourned the meeting at 3:15 p.m.

Board of Pharmacy  
First Quarterly Status Report

**Strategic Goals**  
**Organizational Development Committee**

<b>Goal 5:</b>	<b>Achieve the board's mission and goals.</b>
<b>Outcome:</b>	<b>An effective organization</b>

<b>Objective 5.1:</b>	<b>Obtain 100 percent approval for identified program needs by June 30, 2005.</b>
<b>Measure:</b>	<b>Percentage approved for identified program needs</b>
<b>Tasks:</b>	<p>1. Review workload and resources to streamline operations, target backlogs and maximize services.</p> <p><i>Oct. 2003: Board implements and identifies a number of legislative and regulatory proposals to streamline applications and application processing, complaint resolution and investigation procedures. These include:</i></p> <ul style="list-style-type: none"><li>- citations and fines being issued by the executive officer instead of a committee of the board.</li><li>- New requirements enacted for pharmacy technicians and use of NAPLEX exam</li><li>- status calls on applications pending less than 8 weeks are not answered</li><li>- processing of fingerprint clearances and conviction information altered</li><li>- statutory or regulation changes proposed for applicants for pharmacist, pharmacy technicians, interns, wholesalers and non-resident wholesalers.</li><li>- All Sacramento staff assigned to cover phones as routine duties</li><li>- Board's Web site will be revamped to make information more accessible</li><li>- Enforcement actions against licensees will be integrated into the License Verification function of the Web page to facilitate disclosure of information to the public</li></ul> <p><i>Jan. 2004: Board modifies procedures for processing pharmacy technicians so that all information required to make a licensing decision is submitted at one time (previously the various required components could each be submitted at any time, creating a substantial workload to match information to files.). The goal is to reduce the volume of individual pieces of application information that are submitted at different times</i></p> <ul style="list-style-type: none"><li>- All staff are assigned to answer phones in four-hour blocks to fill behind the board's part-time receptionists and still provide phone coverage for the public. The telephone tree is redesigned to place calls immediately on hold, without the direct intervention of a board operator.</li><li>- Address of record information was placed online in mid-December. This eliminates the need for staff to provide this publicly releasable information.</li></ul>

	<p>-Enforcement information will be soon added to the Web site so complete license verification information will be available on the Web site.</p> <p>-Board procedures for issuing citations and fines and changed to make it easier to respond to public inquiries.</p> <p>- Data systems for monitoring enforcement cases assigned to board staff are integrated so that only one report is prepared monthly instead of two.</p> <p>March 2004: Contracts for CPJE in place; board begins notification of candidates for pharmacist licensure they may take CPJE examination. Over 750 applications processed by end of month</p> <p>- Board seeks subscriber service to board's Web site as a possible means for future communication with licensees, applicants and the public.</p> <p>April 2004: Pilot testing of Web site enforcement look up completed and process made available online.</p> <p>- NAPLEX available to California applicants for pharmacist licensure.</p> <p>- Security processes for data transfer among entities providing examination services under development.</p> <p>June 2004: Exam scores released and licensure of new pharmacist begins under new examination structure</p> <p>Oct. 2004: Staff identifies a number of legislative and regulatory proposals to streamline applications and application processing, complaint resolution and investigation procedures in the future. These are brought to the board for pursuit as regulations or statutory changes.</p> <p>2. Develop budget change proposals to secure funding for needed resources.</p> <p>August 2003: Budget instructions from Department of Finance specify that no program augmentations will be made this year; any increase in resources must come via redirection from within an agency's budget. As such the board dissolves plans for BCPs to augment AG resources and fund a job analysis.</p> <p>August 2004: Budget instructions from Department of Finance specify that no program augmentations will be made this year; any increase in resources must come via redirection from within an agency's budget. As such the board dissolves plans for BCPs to augment AG resources and fund a job analysis.</p> <p>3. Perform strategic management of the board through all committees and board activities.</p> <p>October 2003: Strategic plan updates from all committees provided to board for review during board meeting.</p> <p>January 2004: Strategic plan updates from all committees provide to board for review during board meeting. Additionally committee readies plan for 2004 update of board strategic plan, planned for the April 2004 meeting.</p> <p>April 2004: Strategic plan for each committee and overall plan for the board reviewed and approved by board for 2005.</p> <p>October 2004: Strategic plan updates from all committees provided to board for review during board meeting.</p> <p>4. Manage the board's financial resources to ensure fiscal viability and program integrity.</p> <p>October 2003: Full budget report provided to board on fund condition, revenue, expenditures, and mandatory budget reductions.</p>
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	<p><i>January 2004: Budget report provided to board on fund condition, revenue, expenditures and mandatory budget reductions.</i></p> <p><i>April 2004: Full budget report provided to board on fund condition, revenue, expenditures, and mandatory budget reductions. Board pursues departmental assistance for a funding augmentation for 2004/05 for legal services from the Attorney General's Office to retain same level of service at higher fee rates now in effect by the AG's staff.</i></p> <p><i>July 2004: Full budget report provided to board on fund condition, revenue, expenditures, and mandatory budget reductions. Board receives notification it will receive a \$135,000 funding augmentation for 2004/05 for legal services from the Attorney General's Office to retain same level of service at higher fee rates now in effect by the AG's staff.</i></p> <p><i>September 2004: Committee reviews full budget report on 2003/04 and future year budgets</i></p> <p><i>Board receives augmentation in AG budget of \$216,000 to adjust for higher hourly rates charged by the AG's Office</i></p> <p><i>October 2004: Full budget report provided to board on fund condition, revenue, expenditures, and mandatory budget reductions.</i></p>
<b>Objective 5.2:</b>	<b>Maintain 100 percent staffing of all board positions.</b>
<b>Measure:</b>	<b>Percentage staffing of board positions</b>
<b>Tasks:</b>	<p>1. Continue active recruitment of pharmacists for inspector positions.</p> <p><i>July 2003: Three vacant inspector positions lost due to executive order mandating elimination of any position vacant on June 30, 2003</i></p> <p><i>September 2003: Department of Consumer Affairs notifies board that it is discontinuing the continuous application process for board inspector positions. The board has no vacant inspector positions and DCA can no longer dedicate staff to this function without a corresponding need by the board to have the civil service exam given.</i></p> <p><i>January 2004: Two inspectors on parental leave; however the board has no vacancies. Board requests the department to give an annual inspector exam so that the civil service list for this classification remains active.</i></p> <p><i>February 2004: One inspector formerly on parental leave resigns from board. Board seeks recruitment of pharmacists from other state agencies on layoff lists. No such pharmacists exist, and the board submits a freeze exemption to fill the position.</i></p> <p><i>April 2004: One inspector on parental leave. Freeze waiver for one vacant inspector position undergoing review by the Department of Finance..</i></p> <p><i>June 2004: Hiring freeze ends at end of fiscal year. Board initiates actions to fill vacant inspector position. Board also seeks recruitment of pharmacists from other state agencies. No one responds to position.</i></p> <p><i>August 2004: Pharmacists contacted on inspector civil service list to determine their interest in working for board. The board is not</i></p>

	<p><i>interested in those who respond. Board again requests department to give a new civil service examination for the classification.</i></p> <p><i>September 2004: Board again requests the inspector exam. Board increases time base of one part-time inspector from 50 percent to 75 percent of one full-time position.</i></p> <p>2. Vigorously recruit for any vacant positions.</p> <p><i>July 2003: Six vacant positions lost due to executive order mandating elimination of any position vacant on June 30, 2003 – three inspector positions, one receptionist, one office technician for site licensing, one associate analyst for site licensing. As a result, the board has no vacant positions.</i></p> <p><i>January 2004: The board has no vacant positions</i></p> <p><i>April 2004: The board is seeking a freeze exemption for its vacant inspector position.</i></p> <p><i>June 2004: Freeze waiver not processed by the Department of Finance because freeze will end June 30. Board begins recruitment for vacant inspector position, and to hire seasonal staff.</i></p> <p><i>July 2004: Board begins recruitment for vacant office technician position.</i></p> <p><i>August 2004: Budget Letter indicates process to reinstate positions lost due to hiring freeze; however, implementation of the requirements require that only positions lost in 2003/04 qualify. The board did not lose any positions during this year; however, six vacant positions were lost due to executive order mandating elimination of any position vacant on June 30, 2003, and four were lost in June of 2002.</i></p> <p><i>Board seeks to hire temporary staff – two seasonals, and one retired annuitant. One part-time OT leaves board employment.</i></p> <p><i>September 2004: Board hires two seasonal staff and rehires its former newsletter editor as a retired annuitant. Board conducts interviews for office technician position.</i></p> <p><i>October 2004: Board hires office technician Board, begins recruitment for vacant legislative position.</i></p> <p>2. Perform annual performance and training assessments of all staff.</p> <p><i>December 2003: All inspectors have annual performance assessments done by their supervisors. State budget restrictions on training may impede the ability of the board to provide all training needed or desired by inspectors.</i></p>
<b>Objective 5.3:</b>	<b>Implement 10 strategic initiatives to automate board processes by June 30, 2005.</b>
<b>Measure:</b>	<b>Number of strategic initiatives implemented to automate board processes</b>
<b>Tasks:</b>	<p>1. Perform a feasibility study to establish the board's own computer system to track licensees and enforcement activities.</p> <p><i>July 2003: Department of Finance issues budget instructions stating all computer installation projects and proposals are postponed due to budget crisis.</i></p> <p>2. Continue to work with the Department on the development and</p>

	<p>implementation of the Professional Licensing and Enforcement Management System (PLEMS).</p> <p><i>November 2003: Department of Finance denies Department of Consumer Affairs' PLEMS feasibility study report. Department discontinues project. Board suggests reassignment of existing information technology staff to resume programming modifications to existing CAS system which were reassigned to develop PLEMS. This will prevent board from realizing one finding of DCA's Internal Audits Office – to have only one tracking system in place at the board.</i></p> <p><i>May 2004: Board prepares parameters to join DCA's applicant tracking system to eventually enable online renewals in the future.</i></p> <p>3. CURES</p> <p><i>November 2003: Board Inspector develops program to integrate CURES data into board's pharmacy inspection tracking program, so that summary CURES data is immediately retrievable when looking at a pharmacy's record.</i></p> <p>4. Board seeks software to allow subscribers to the board's Web site to be notified when the Web site is updated.</p> <p><i>September 2004: board pilot tests system</i></p> <p><i>October 2003: board activates system</i></p> <p>5. Miscellaneous Projects</p> <p><i>January 2004: Board purchases new printers for board office to provide more efficient use of board's new file server.</i></p> <p><i>May 2004: Board meets with department's OIS staff on board strategic priorities for automation. The need to allow online renewal is the board's #1 priority. The board stated its desire for online submission of applications, an automated tracking system (PLEMS) and the ability of applicants to identify the status of their applications online.</i></p> <p>6. Pharmacist Licensure Examinations:</p> <p><i>March –June 2004: New and secured systems developed to transmit data to and from vendors of the NAPLEX and CPJE exams, provide results to candidates in an automated fashion as much as possible.</i></p> <p>7. Provide equipment to facilitate performance of board duties</p> <p><u>Computer Equipment:</u></p> <p><i>June 2004: New computers ordered for inspectors</i></p> <p><i>October 2004: New laptop computers are imaged and provided to board inspectors</i></p> <p><u>Communication Systems with Field Staff</u></p> <p><i>June 2004: new integrated communication systems ordered to allow access of e-mail from field.</i></p> <p><i>September 2004: Board receives handheld communications devices that combine the ability to send and review e-mail, function as telephones and pagers for all board inspectors. This will improve communications with these field staff regardless even when they are away from their home offices.</i></p> <p><i>October 2004: Inspector staff receive and are trained to use new equipment</i></p> <p><u>General Equipment</u></p> <p><i>June 2004: Provision of postage system in inspectors' home office to eliminate the need for frequent trips to the post office.</i></p>
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<b>Objective 5.4:</b>	<b>Provide for communication venues to communicate within the board by June 30, 2005.</b>
<b>Measure:</b>	<b>Number of communication venues to communicate within the board</b>
<b>Tasks:</b>	<ol style="list-style-type: none"> <li>Continue the Communication Team to improve communication among staff and host quarterly staff meetings.  <i>July 2003: quarterly staff meeting made discretionary for board inspectors due to lack of a state budget. TCT hosts annual picnic for all Sacramento staff and a number of inspectors who travel to Sacramento.</i>  <i>Sept. 2003: TCT conducts mail-ballot election to replace vacancy of one analyst on the TCT</i>  <i>October 2003: to reduce travel expenses, quarterly staff meetings are converted to biannual meetings (July and December), as such no TCT quarterly meeting held.</i>  <i>December 2003: TCT hosts staff meeting and team building activities for all board staff. Board members provide Christmas lunch to staff.</i>  <i>March 2004: LA-based inspector staff attend Enforcement Team Meeting in Burbank.</i>  <i>May 2004: Inspectors hold inspector workshop in Fresno</i>  <i>June 2004: TCT hosts staff meeting and annual staff picnic</i>  <i>Sacramento-based inspector staff join other Sacramento staff to attend Enforcement Team Meeting</i>  <i>September 2004: LA-based inspector staff attend Enforcement Team Meeting in Burbank</i>  <i>October 2004: Team meetings of each inspector team occur in Sacramento during time of new equipment exchange</i> </li> <li>Continue Enforcement Team meetings with board members and enforcement staff.  <i>July 2003: Enforcement team meeting held in Sacramento. To reduce travel expenses, quarterly team meetings with all enforcement staff will be converted to biannual meetings. Supervising inspectors will provide inspector meetings to update Los Angeles-based staff.</i>  <i>Sept. 2003: Enforcement team meeting held in Sacramento. Los Angeles inspectors not present, but supervisors hold inspector meeting in LA for these staff to reduce travel expenses.</i>  <i>Dec. 2004: Enforcement Committee and Enforcement Team meetings held with all board enforcement staff.</i>  <i>March 2004: LA-based Enforcement Staff meet in Los Angeles as part of Enforcement Team Meeting.</i>  <i>June 2004: Enforcement team meeting in Sacramento. Los Angeles inspectors not present</i>  <i>September 2004: LA-based Enforcement Staff meet in Los Angeles as part of Enforcement Team Meeting.</i> </li> <li>Convene inspector meetings to develop standardized investigation and inspection processes and earn continuing education.  <i>July 2003: inspector meeting held in conjunction with Enforcement Team meeting.</i>  <i>Sept. 2003: inspector meeting held in Northern and Southern CA. Topics include development of new procedures, case presentation and review, and workload discussions.</i> </li> </ol>

	<p><i>Dec. 2003: inspector meeting held with all inspectors. Computer modifications incorporated onto all inspectors' computers.</i></p> <p><i>March 2004: inspector meeting planned for late May to focus on improving investigation reports.</i></p> <p><i>May 2004: Inspectors hold four-day inspector workshop in Fresno to provide training and discussion of investigations.</i></p> <p><i>June 2004; Inspectors have one-day inspector meeting as part of semi-annual meetings.</i></p> <p><i>August 2004: Compliance team inspectors meet to identify and assign inspection locations through June 2005</i></p> <p><i>October 2003: All inspector teams meet during reassignment of equipment</i></p>
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<b>Objective 5.5:</b>	<b>Annually conduct at least 2 outreach programs where public policy issues on health care are being discussed.</b>
<b>Measure:</b>	<b>Number of outreach programs conducted in one year</b>
<b>Tasks:</b>	<p>1. Attend outreach programs.</p> <p><i>September 2003: President Jones attends NABP's District VII and VIII meeting</i></p> <p><i>October 2003: Board participates in CSHP's Annual Seminar in Sacramento</i></p> <p><i>November 2003: Board participates in development of Emergency Contraception Protocol for pharmacists, as required by SB 490 (Alpert, Chapter 651, Statutes of 2003)</i></p> <p><i>December 2003: Staff attend USC Seminar in Balancing the Rx Cost/Benefit Equation</i></p> <p><i>January 2004: Board participates in CPhA's Outlook 2004</i></p> <p><i>March 2004: Board convenes Workgroup on Pharmacy Compounding task force to determine parameters for distinguishing between compounding and manufacturing</i></p> <p><i>April 2004: Board members attend NABP's annual meeting.</i></p> <p><i>June 2004: Board participates in public policy discussion regarding importation of Canadian drugs hosted by the Pharmacy Foundation of California.</i></p> <p><i>Board holds second meeting of Workgroup on Pharmacy Compounding to determine parameters for distinguishing between compounding and manufacturing</i></p> <p><i>September 2004: Board holds third meeting of Workgroup on Pharmacy Compounding to determine parameters for distinguishing between compounding and manufacturing</i></p> <p><i>October 2004: Executive Officer attends Clearinghouse on Licensure and Enforcement Regulator (CLEAR) in Kansas City, she provides a presentation on doing more with less.</i></p>





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STATE AND CONSUMER SERVICES AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

ARNOLD SCHWARZENEGGER, GOVERNOR

**STATE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
PUBLIC BOARD MEETING  
MINUTES**

**DATE:** July 21, 2004

**LOCATION:** University of California, San Diego  
University Center – Price Center, Ballroom A  
9500 Gilman Drive  
La Jolla, CA 92093-0076

**DATE:** July 22, 2004

**LOCATION:** Hyatt Regency  
3777 La Jolla Village Drive  
San Diego, CA 92122

**BOARD MEMBERS**

**PRESENT:** Stanley Goldenberg, President  
William Powers, Vice President (July 21, only)  
Ruth Conroy  
David Fong  
Clarence Hiura  
John Jones  
Kenneth Schell  
John Tilley  
Andrea Zinder (July 21, only)

**BOARD MEMBER**

**ABSENT:** Richard Benson

**STAFF**

**PRESENT:** Patricia Harris, Executive Officer  
Virginia Herold, Assistant Executive Officer  
Robert Ratcliff, Supervising Inspector  
Judith Nurse, Supervising Inspector  
Joan Coyne, Supervising Inspector  
Dennis Ming, Supervising Inspector  
Joshua Room, Deputy Attorney General  
Dana Winterrowd, Department of Consumer Affairs Legal Counsel

## **COMMITTEE REPORTS AND ACTION**

### **ORGANIZATIONAL DEVELOPMENT COMMITTEE**

#### **Board President's Report**

President Goldenberg became president of the board on June 1. This is his first meeting as president. President Goldenberg started the meeting by reading his "President's Message."

President Goldenberg stated that the current structure of the board is seven pharmacists and six public members who have the opportunity to teach and learn from each other. While striving to improve communication between its members and the public, informed members can base decisions on factual evidence and the board's mission to protect consumers.

President Goldenberg stated that during the early 1990s, 10 board members held only five public meetings yearly to conduct all board business. During the middle 1990s in order to increase communication between the public and the board, the board developed a committee structure, and thereby increased the meetings from 5 to up to 25 per year.

President Goldenberg stated that the board's mission is to protect the public. He encouraged stakeholders and the public to provide input through factual presentations and well thought out suggestions during board development of policy. To explore additional means to facilitate communication among the board, the public and stakeholders, President Goldenberg recommended that Chairperson John Tilley designate one or more meetings of the Organizational Development Committee to be open to the public and specifically to seek comments on expanding communication.

President Goldenberg acknowledged Mr. Tilley's experience in working with many organizations and he added that the board would benefit from his experience as he serves as chair of the Organizational Development Committee.

President Goldenberg acknowledged his wife Susan Goldenberg, Art Whitney from the Long Term Care Counsel, Raffi Simonian, former Board President, Steve Gray from Kaiser Permanente and John Cronin from the California Pharmacists Association, who were in attendance. He stressed that during this year, improved communication will be his theme to benefit the public.

- **Recognition of Former Board President John Jones**

President Goldenberg presented former Board President John Jones with an inscribed plaque in recognition of his hard work and dedication as president for the last two years of the Board of Pharmacy.

- **Assignment of Committee Chairs**

President Goldenberg announced the new chairs of the board's committees:

Andrea Zinger - Communication and Public Education Committee  
William Powers - Enforcement Committee  
John Jones - Legislation and Regulation Committee  
Ruth Conroy - Licensing Committee  
Kenneth Schell - Competency Committee  
John Tilley - Organizational Development Committee

President Goldenberg stated that former committee chairs would report on committee action reports during the board meeting.

Chairperson Tilley encouraged the public and board members to attend future public meetings of the Organizational and Development Committee.

- **Proposed Modifications to Strategic Plan for 2003-05**

Chairperson Tilley stated that at the last board meeting, the board approved its strategic plan for 2004/05. When compiling the final changes to the plan, staff noticed that there was no mention of consumers purchasing drugs from foreign sources in the environmental scan (which was completed in early 2002). The environmental scan identifies issues that impact the board's operations and emerging policies. He added that the committee believes that such an inclusion is necessary in the board's strategic plan for 2004/05.

The committee suggested the following modification:

1. **Cost of medical/pharmaceutical care**

Providing necessary medication for all Californians is a concern; there is an increasing demand for affordable health care services.

~~Regardless~~—Also, spiraling medical care and prescription costs may influence people to take short cuts on their drug therapy or to seek medications from nontraditional pharmacy sources. Tiered pricing is a global reality. Due to global communication, patients can access drugs at different prices, worldwide. Patients seek lower cost medications from these sources because patients assume that prescription drugs are of the same quality as they are accustomed to obtaining from their neighborhood pharmacy. However, the cost of drugs drives unscrupulous individuals (such as counterfeiters and diverters) as well as conscientious health care providers to operate in this marketplace, the former endanger public health and confidence in the prescription drugs patients take.

~~Consequently, tier or bid pricing strategies may evolve by manufacturers.~~

~~Expanded patient rights will lead to higher costs to everyone.~~

John Cronin, representing the California Pharmacists Association, asked what the budgetary impact is to pursue this as a strategic plan objective.

Ms. Herold stated this is a factor influencing board actions and activities. It is not a specific plan of action to be taken by the board. The information is printed on the board's Web site and would not impact the board's budget.

Ms. Harris stated that the strategic plan should identify topics the board addresses. In the case of alternative sources of drugs, this has been a standing agenda item in the Enforcement Committee. A brochure was published for consumers buying drugs on the Internet or foreign sources, and the board has consistently provided technical assistance on pending legislation in this area. She added that these resources are not reflected in the current environmental scan.

Mr. Cronin stated that because the board is funded from licensees he did not feel it was appropriate to publish consumer information that violates federal law, and should include warning provisions about drugs not approved by the FDA and the illegality of importing drugs from outside of the U.S.

MOTION: Organizational Development Committee: Modify Item 1 of the environmental scan of the board's strategic plan for 2004/05, to include issues arising from consumers purchasing drugs from foreign sources proposed by the Organizational Development Committee.

SUPPORT: 9      OPPOSE: 0

- **Proposed Policy Concerning Board Voting**

Chairperson Tilley stated that during the January Board Meeting, a question arose about whether board members who vote as "abstain" during a board vote were actually voting or not. And if voting, how the votes should be tallied.

Chairperson Tilley stated that the committee has worked with the department's Legal Office to craft guidelines for board votes during board meetings and on mail ballots. The committee discussed the need to clarify voting parameters for the board with respect to quorum requirements and when a motion passes or fails. The board's legal counsel suggested that the board develop its own policies.

The board generally follows Robert's Rules of Order when a parliamentary question arises; however, these rules were developed for the public sector. The committee discussed various quorum and voting issues and developed recommendations for the board.

## **Quorum**

Under law, quorum is defined as seven members (California Business and Professions Code section 4200(b)).

The board will use the following criteria in counting votes on a given motion or decision (this includes motions during board meetings and mail votes on disciplinary matters).

The board must have a quorum of members present to take an action.

- There must be a least seven members voting for the board to take an action or position on an item.
- A motion passes if a majority of those voting votes for the measure.
- Abstentions count as votes for purposes of establishing a quorum, but do not count as votes for or against the measure. Abstentions simply mean that the abstaining board member will go along with the majority decision of the board.

Dr. Fong asked how this policy compares to what other boards use within the department.

Dana Winterrowd, DCA Legal Counsel, stated that the Legal Office's policy is to leave it to a board's discretion.

Mr. Powers asked if the proposed policy is consistent with Robert's Rules of Order.

Mr. Winterrowd stated that it was not.

Joshua Room, Deputy Attorney General, stated that the proposed format could make it easier to carry motions with less affirmative votes.

Mr. Jones stated that this format will help to remove the gridlock the board experienced at the January board meeting and it would not create an unfair situation if everyone understands the rules.

Dr. Schell expressed concern about the board president's role in voting. He added that the president's role is to break a tie.

Steve Gray, representing Kaiser Permanente, congratulated the committee on addressing the issue. He added that denying the board president's vote would deny input on important decisions. He added that the intent of this proposal is to clarify the voting rules.

Sam Shimomura, representing Western University, stated that the board should not establish criteria for allowing board members to abstain because it may result in the board abstaining on all difficult or controversial issues to avoid criticism or conflict. He added that the board should establish a policy that it can only abstain for a conflict of interest issue and not a controversial issue.

Mr. Cronin recommended that the board reject this proposal and remain with Robert's Rules of Order. He stated that under Robert's Rules, it is assumed that for mail votes there is a quorum with everyone voting.

MOTION: Organizational Development Committee: That the Board of Pharmacy adopt the following as voting parameters for public meetings and mail votes:

### **Quorum**

Under law, quorum is defined as seven members (California Business and Professions Code section 4200(b)).

The board will use the following criteria in counting votes on a given motion or decision (this includes motions during board meetings and mail votes on disciplinary matters).

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- A motion passes if a majority of those voting votes for the measure.
- Abstentions count as votes for purposes of establishing a quorum, but do not count as votes for or against the measure. Abstentions simply mean that the abstaining board member will go along with the majority decision of the board.

SUPPORT: 6      OPPOSE: 3

- **Budget Update for 2003/04 and 2004/05**

**Workload Priorities Adjusted:** The board has had to reprioritize workload to address staffing shortages. Changes enacted by SB 361 that took effect in January on pharmacy technician and pharmacist licensure examination processing functions have been implemented. A great deal of staff time is now being invested in education activities surrounding SB 151, which alters the requirements for prescribing and dispensing controlled substances.

The state hiring freeze, which has been in effect since 2001, expired July 1. The board will hire additional staff to perform some office functions. These will be temporary staff except for one inspector position, because the board has no other vacant positions. Money will be redirected principally from printing to fund these positions.

**AG Office's Hourly Rates Increase:** The AG's hourly rates for legal services increased April 1, and will increase again on July 1. These higher rates will increase the costs for legal services from the Ag's Office. For the next year the board has received a \$135,000 augmentation to permit the board to buy the same number of legal services hours (at the April 1 rate) as the board was budgeted for in 2003/04.

Rate	Previously	April 1	July 1
Attorneys in the L.A. Office	\$120/hr	\$132/hr	\$139
Attorneys in other AG Offices	\$112	\$132	\$139
Legal Assistants	\$ 53	\$ 91	\$91

Until this fiscal year, for the last five years, the board's AG budget has been under-funded. Despite budget change proposals seeking augmentation, the board's AG budget has not been adequately funded. However, in 2003/04, the board did not use its full AG budget of \$780,000, due to the new citation and fine program, case management and because the Board of Registered Nursing received extra funding so that the AG could work its cases. The work on the BRN cases reduced the number of attorneys available to work on board cases.

**CURES Support from Board to Increase?** Last year, in response to the board's omnibus legislation in 2001 to extend CURES, certain regulatory boards (Pharmacy, Medical Board, Nursing Board, Dental Board, Osteopathic Board) were tapped to (in legislation) fund CURES data collection costs because the state's General Fund could not support it. Last year, the board funded \$68,000 for CURES data collection and analysis contracts. For 2003/04, the board was notified in January that the DOJ was seeking \$92,000 from the board. The documentation for the additional expenses was inadequate to justify the expenditures, so the board approved funding for CURES at \$68,000. The DOJ was advised to attend this board meeting to seek the additional \$24,000 if it still wished to seek this funding.

**DOI Repayment:** The department owes the board about \$135,000 in overpayment collected for Division of Investigation Services the board did not use over the last four years. The department will repay this amount at the end of 2003/04.

**Board Member Expenditures and Reimbursements:** According to current estimates, board members will be reimbursed for time spent performing board business outside of board meetings at the end of the fiscal year. This policy was adopted as a cost-cutting measure last July, and the board agreed to withhold compensation for such hours until it could be determined if the board could pay these costs. Board members already were reimbursed for hours spent in board meetings.

- **Budget Update for 2003/04:**

The fiscal year ended June 30, 2004.

As a review, since July 1, 2003 (the beginning of this fiscal year), the board has:

- Lost six positions vacant on June 30, 2003.
  - Taken a 12 percent (or \$411,000) cut in Personnel Services. Most of this was linked to the loss of the six positions; additionally \$12,000 in board member compensation was lost as was all overtime and \$9,000 from operative expenses. No staff at the board was laid off to meet the 12 percent reduction.
1. **Revenue for 2003/04:** The board's projected revenue for the year is now \$6,397,387. This is comprised of \$5,399,034 in fee revenue (84.4 percent) and \$92,246 in interest and misc. fees (1.4 percent).
    - The board collected \$750,973 in citation revenue during the first 11 months of the year (11.7 percent).
    - Additionally \$155,135 has been collected as cost recovery through June 1 (2.4 percent).
  2. **Expenditures for 2003/04:** The most recent estimates prepared by the Department of Consumer Affairs (March 2004) now set estimated expenditures for the year at \$6,901,670. This figure includes the 12 percent reduction in personnel expenditures. The projected expenditures for the year are:

Personnel:	53.5 percent
Pro rata to DCA:	13.9 percent
Enforcement (AG,OAH):	11.8 percent
Facilities Operation:	4.9 percent
Contracts:	3.9 percent
Travel:	3.3 percent
General Expense:	3.2 percent
Exam:	2.3 percent
Postage:	1.3 percent
Communications:	1.0 percent
Printing:	1.0 percent
  3. **Update: Board Fund Condition:** Last year the board loaned \$6 million from its fund to the state's General Fund. Repayment of this loan is required if the board will enter a deficit situation. This year, the board is expected to spend at least \$500,000 more than it projects it will collect in revenue. As such, the amount of money in reserve in the board's fund is important. The board will not have a deficit in its fund until sometime in 2005/06. A new fund condition will be provided at the October Board Meeting that contains the final budget figures for 2003/04.

**For 2004/05:**

4. **2004/05 Board Budget Approved:** The board's budget contains no new spending proposals, and as such, the board will continue to operate in the same manner, and with the same resources, as in 2003/04.
5. **No Funding increases for New Programs:** The Governor's Office and the Department of Finance have stated in recent budget instructions that there will be "no



discretionary funds available from any fund source for new initiatives or program expansion.” As such, any new legislative mandates or program modifications must be funded within existing funding. The board has not sought additional funding for future years’ budgets due to this directive.

- **Personnel Update**

In January, Inspector Rosie Yongvanich resigned from the board to become a full-time parent. The board is recruiting to fill the vacancy.

Three board staff are on parental leave: Manager Anne Sodergren, Legislative Coordinator Paul Riches, and Inspector Cindy Drogichen Rich.

Inspector Bob Venegas recently completed a two-week training in Virginia, provided by the FBI. The Drug Enforcement Administration paid for this investigator training. This was an honor for both the board and Inspector Venegas.

Mr. Cronin stated there is a perception that the Board of Pharmacy is shifting its policy so that citations and fines become a major revenue source for the board and that the fine amount is at 11.7 percent. He asked if this compares to previous years.

Ms. Harris stated it is more than collected in prior years, and includes settlements for several large Internet cases.

President Goldenberg suggested that this issue be address at the Enforcement Committee portion of the board meeting.

Mr. Cronin stated that another perception is that the Board of Pharmacy has decreased its willingness and availability to provide legal advice to its licensees. He suggested that the 11.7 percent revenue from violations be used towards educational benefits to licensees.

President Goldenberg suggested that this be address at the during the Enforcement Committee portion of the board meeting.

- **Approval of Minutes**

**Full Board Minutes  
(April 21, 2004)**

President Goldenberg asked if there were any corrections to the minutes. There were none.

MOTION: Approve the April 21, 2004, Board Meeting Minutes

M/S/C: SCHELL/ACEVEDO

SUPPORT: 9      OPPOSE: 0

## **INTRODUCTION**

Dr. Simonian introduced four faculty members from UCSD; Dr. Alex Dominguez, Dr. Deborah Duwe, Dr. Ed Tsu and Dr. Susan Wilson.

President Goldenberg asked visiting students to stand and introduce themselves.

President Goldenberg acknowledged William Powers as the newly appointed vice president of the board, and Dave Fong as the newly appointed treasurer.

## **COMMUNICATION AND PUBLIC EDUCATION COMMITTEE**

President Goldenberg announced the new committee members of the Communication and Public Education Committee: Andrea Zinder (Chair), Richard Benson, William Powers and Kenneth Schell.

- **Proposal to Join the California Health Communication Partnership**

Mr. Powers stated that the UCSF's Center for Consumer Self Care is forming an organization comprised of agencies that develop consumer health education programs and materials. Called the California Health Communication Partnership, this group would develop and promote consumer health education programs and activities developed by the member organizations in an integrated fashion. The board has been invited to join as a founding member.

The California Health Communication Partnership would identify health communication programs and recommend the timing for integrated activities by individual partners for the programs. The partnering organizations would decide if and how they would use their resources to promote the health communication themes suggested.

The board would have minimal cost for joining and one of the benefits would be the increased production and/or promotion of health education materials for the public.

R. William Soller, Ph.D., Director of the Center for Consumer Self Care, thanked the board for the opportunity to present the program concept to the board.

Dr. Soller added that the California Health Communications Partners would be comprised of statewide and national organizations and government agencies with interest and/or public programs in health communications. Through a Steering Committee, health communication programs would be identified and a recommendation made for timing activities. The partnering organizations would determine how to utilize their resources to promote the health communication themes suggested by the Steering Committee.

Dr. Soller explained the program mission and talked about the partnership members. He stated that the goal of this program is to target large groups to significantly impact communities in California. He added that this particular research approach would provide a means to track consumer behavior in health communications and would evaluate the impact of national health awareness months.

Mr. Tilley asked if this is a non-profit organization.

Dr. Soller stated that the school of pharmacy is non-profit. The administrators are faculty members on the Steering Committee and would take a principal role in the organization of the program. Faculty members are paid from direct salary from the school guaranteed to tenured professors or outside sources. He added that it would be very beneficial for a board member to also sit on the Steering Committee.

MOTION: Communication and Public Education Committee: Join the California Health Communication Partnerships as a founding member.

SUPPORT: 8      OPPOSE: 0      ABSTAIN: 1

- **Proposal to Join the California Tobacco Control Alliance to Endorse its “Smoking Cessation Benefits for Everyone” Campaign**

Mr. Powers stated that at the April Board Meeting, the board voted to work with the UCSF School of Pharmacy to produce a future *Health Notes* on smoking cessation. Before making this recommendation to the board, the committee reviewed materials produced by the California Tobacco Control Alliance for primary care practitioners, which they call a “Health Care Provider’s Tool Kit for Delivering Smoking Cessation Services.”

The board was recently asked to join the California Tobacco Control Alliance’s campaign to encourage managed care providers to cover uniform smoking cessation benefits in standard health care packages. This is part of the alliance’s mission to reduce the number of smokers.

MOTION: Communication and Public Education: That the Board of Pharmacy indorse the California Tobacco Control Alliance’s “Smoking Cessation Benefits Everyone” Campaign.

SUPPORT: 9      OPPOSE: 0

- **Update on Project with UCSF’s Center for Consumer Self Care on the Development of a Consumer Fact Sheet Series**

Mr. Powers stated that at the April Board Meeting, the board approved a proposal by the committee to integrate pharmacy students into public outreach activities. At the June

committee meeting, Dr. Soller of the UCSF Center for Consumer Self Care participated in a discussion on implementing this proposal.

The project will have students develop one-page fact sheets on diverse health care topics. The board will work with Dr. Soller to develop these fact sheets, using pharmacy students from UCSF and UCSD. A prototype format for a series of fact sheets will be developed. Each interested student will be acknowledged with a credit at the bottom of the fact sheet he or she develops. Review by professional staff at UCSF for content accuracy will occur as part of the process.

- **Update on *The Script***

Mr. Powers stated that the March 2004 issue of *The Script* was mailed to California pharmacies at the end of March. A copy is on the board's Web site. This issue focuses on the many substantial changes to pharmacy law that took effect in 2004 (e.g., changes in the prescribing and dispensing of controlled substances, new pharmacy technician requirements and new pharmacist licensure examinations).

The CPhA's Pharmacy Foundation of California mailed the issue to California pharmacists in early June.

The hiring freeze ended June 30, 2004. The board intends to hire former newsletter editor Hope Tamraz as a retired annuitant to produce the next issue of *The Script*, which should be published in September.

- **Update on *Health Notes***

Mr. Powers stated that *Health Notes* is a monograph, produced by the board that contains up-to-date drug therapy guidelines for a specific subject area. Because *the board produces Health Notes*, it conveys what the board believes is current drug treatment in a particular area. Pharmacists can earn continuing education credit by completing a test published at the back of the monograph. Thus the board provides information and actually is sponsoring CE in an area of importance to the board. Seven issues have been produced since 1996.

### **Pain Management Issue:**

Mr. Powers stated that the board is currently developing a new issue on pain management, which should be published in September of 2004. The new issue will contain new pain management therapies and the new prescribing and dispensing requirements for controlled substances. It is planned as an interdisciplinary issue for pharmacists as well as physicians, dentists, and nurse practitioners. Prominent pain management authors have written the articles, and board staff and Board Member Schell are editing and coordinating the issue. The CSHP is seeking funding for production and mailing costs. Depending on how many grants the CSHP obtains for this issue, the board hopes to spend \$0 on this issue.

### **Smoking Cessation**

Mr. Powers stated that at the April 2004, Board Meeting, the board agreed to work with the UCSF to develop a *Health Notes* on smoking cessation. The UCSF is seeking funding for this issue from manufacturers of smoking cessation products.

The board will be responsible for the layout and design of the issue. If funding permits, the board will print and mail the issue. If the board lacks funding for this (\$85,000), the issue will be placed on the board's Web site.

### **UCSF Monograph on Atrial Fibrillation**

Mr. Powers stated that at the April 2004, Board Meeting, the board voted to become a cosponsor with the UCSF School of Pharmacy to produce a monograph on Atrial Fibrillation. The audience would be pharmacists and physicians. Funding for this issue would come from a drug manufacturer. Continuing education credit for those who complete the reading would be one outcome of this project.

The UCSF intends that in place of publishing this issue as a printed monograph (such as *Health Notes*), to instead place the issue on the Web site for downloading, possibly as a CE program. There would be no direct costs to the board.

- **Establishment of Internet Subscriber Lists for Board Materials**

Mr. Powers stated that staff is waiting for the Department of Consumer Affairs to install software to permit the board to set up a subscriber list on the board's Web site. This feature would send e-mails to interested parties announcing that the board's Web site has been updated. The interested parties would subscribe themselves to the board's Web site, and be responsible for keeping their e-mail addresses current.

This service has the potential to substantially reduce the board's mailing expenses as well as printing costs. Materials that the board currently publishes and mails could be sent without cost via e-mail. Such a notification system would allow the board to update licensees far more quickly about new information and laws.

After being contacted by the board, the Department of Consumer Affairs has recognized the value of such software, and is interested in pursuing this for the rest of the department. The board will be the first agency to use the software, and this should be implemented by the end of July.

- **Update on Public Outreach Activities**

Mr. Powers stated that the board implemented and provided a sizeable and significant public outreach and licensee education program this year. This is a dynamic area of board activities and relies heavily on the involvement of board members and senior board staff.

The board staffed booths at two public education fairs since the April Board Meeting, “Healthy Aging” in Sacramento and a senior health fair in Yreka.

The board also continued to present its revised Power Point presentation on the board that highlights key board policies and pharmacy law. This is a continuing education course, provided by a board member and a supervising inspector. Questions and answers typically result in a presentation of more than two hours; these presentations are well received by those in attendance.

Additionally, the board has had increasing interest in its Power Point presentations on SB 151 and the new requirements for prescribing and dispensing controlled substances in California. Some of these presentations have occurred via teleconferences with large numbers of practitioners. More than 20 separate presentations have occurred in the last three months.

#### **Future Presentations**

Dr. Hiura asked if the board has lended its name in the past for endorsing programs.

Ms. Herold stated that in the past the board has endorsed various programs. She added that the board held a health fair summit through CPhA, CSHP and other organizations where the board actually advocated that pharmacists’ care be specifically compensated for as a service rather than tied to a drug product. She added that most of the *Health Notes* published to date have been collaborations with other organizations that develop the issue and obtain the money to publish *Health Notes*. The board reviews the issues and determines its cost; either for layout or postage.

Ms. Harris added that the board is not paid for the outreach services it provides, and must pay for travel costs for all staff and board members who travel. Ms. Harris stated that because public outreach is a priority, the board uses its resources to achieve this priority.

Ms. Harris commended the efforts of Supervising Inspectors Bob Ratcliff, Judi Nurse, Dennis Ming and Joan Coyne and executive staff Virginia Herold and Paul Riches. She added that the work they perform on outreach efforts is in addition to the regular work load and often requires a great deal of travel.

Dr. Gray complemented the board on its public outreach efforts. He added that the public appreciates the information shared.

Dr. Gray expressed concern about the board participating in the Arial Fibrillation monograph because at the last board meeting, the UCSF was unwilling to disclose the sponsoring pharmaceutical organization. He added that this should be a matter of public information.

Dr. Soller stated that the contract has not been signed yet. Dr. Soller indicated that the manuscript developed by the University would undergo peer review, but not review by the funding source.

Dr. Fong referred to the audio conference on SB 151 that Supervising Inspector Judi Nurse participated on and asked about future audio conferences.

Ms. Nurse stated that there were approximately 20 participants at each of the three teleconferences that she participated in. She added that the audience in all presentations were very interested and asked many questions.

Ms. Herold stated that a Power Point presentation is on the board's Web site for downloading with speaker notes containing additional information. She added that Paul Riches participated in a teleconference that included 1,200 individuals.

Don Shaevel, pharmacist from Palm Springs, California, commended the board for developing smoking cessation materials.

## **ENFORCEMENT COMMITTEE**

President Goldenberg welcomed the new members to the committee: William Powers (Chair), Stan Goldenberg and Dave Fong.

Mr. Jones stated that his service as a member of the Enforcement Committee during the last six years has been a rewarding and informative assignment. He commended the board's inspectors and staff on their professionalism. He added that although the nature of the work on this committee is intense, the work offers insight into a board member's role. He added that he would miss serving on this committee.

- **Recommendation to Amend Business and Professions Code Section 4115(f) to Allow Another Verification Process Other than Initials**

Mr. Jones stated that when a pharmacy technician assists in the filling of a prescription, Business and Professions Code section 4115(f) requires a pharmacist to initial a prescription to verify that he/she checked the prescription before the medication is provided to the patient. This requirement is also in regulation, CCR, Title 16, sec. 1793.7(b).

Mr. Jones stated that at the Enforcement Committee meeting, the Rite Aid Corporation requested a waiver of the requirements to accept Rite Aid's biometric fingerprint recognition technology as a means of complying with this requirement.

Rite Aid plans to use a biometric fingerprint authentication system in its approximately 3,400 pharmacies nationwide with implementation in California by November 2004. The purpose of the biometric system is to provide pharmacy staff with the secure access and authorization necessary to process prescriptions during the dispensing process. The biometric function includes the ability to register one or more of the user's fingers, and to use the biometric scan of the fingerprint(s) for secure authorization. Signing in with the biometric scan then permits Rite Aid to identify the pharmacy associate responsible for various phases of the dispensing process. This technology allows for a more secure authorization of a pending prescription order, including an order prepared by a pharmacy technician.

During the Enforcement Committee meeting, the committee discussed the use of biometric fingerprint technology as a viable alternative to the pharmacist's signature on the prescription label; however, a statutory change would be required. The board's inspectors were supportive of such a statutory change that would allow the use of this technology since it appears to be more reliable and legible than an initial on the label that is often written in haste.

The Enforcement Committee agreed to recommend to the Board of Pharmacy that it support a statutory change to Business and Professions Code section 4115(f) that would allow another verification process other than a signature as approved by board regulation.

Since there was significant support for this proposal, it was suggested that the amendment be placed in the board's omnibus bill this year if possible.

Mr. Jones asked the board to support the statutory change.

Dr. Fong stated that he supports this proposal and encouraged the board to move forward and support this new technology.

Dr. Schell stated that he also supports the recommendation but wanted to assure that the board could identify reliable technology.

Mr. Jones stated that the board is not endorsing a particular system. People using the systems are responsible for any failures.

Steve Gray, representing Kaiser Permanente, stated that Kaiser strongly recommends that the board move forward with this proposal. He stated that there are excellent examples of technology that actually improve accountability. He added that several other states are using this technology and California is a little behind in its use. He added that Kaiser implements systems now but certain features that are available in other states are not in use because it is not permitted in California. He added that Kaiser has a system that will be available for use in January 2005.



MOTION: Enforcement Committee: That the Board of Pharmacy support a statutory change to Business and Professions Code section 4115(f) that would allow for another verification process other than a signature on the prescription label as approved by board regulations.

SUPPORT: 9      OPPOSE: 0

- **Discussion on the Reimportation of Prescription Drugs from Canada**

Mr. Jones stated that the National Association of Boards of Pharmacy (NABP) held an Importation Enforcement Workshop and Task Force meeting on June 22-23, 2004, to address the issue of importation and the prosecution of entities involved in this activity. Information from this meeting was provided in the board packets. Also provided was the NABP's report on the most recent action by state boards of pharmacy against storefront, pharmacies, and other entities that assist in the illegal importation of prescription medication from Canada. These included: the Interim Findings from the Guiliani Partners, LLC, on the examination and assessment of prescription drug importation from foreign sources to the United States and a letter from McKesson Corporation to the Task Force on Importation.

Mr. Jones stated that at the last board meeting, it was reported that the Food and Drug Administration (FDA), on behalf of the U.S. Department of Health and Human Services' (HHS) Task Force on Drug Importation, announced that it established a docket to receive information and comments on certain issues related to the importation of prescription drugs. The FDA also announced a public meeting on April 14<sup>th</sup> so that individuals, organizations and other stakeholders could present information to the Task Force for a study on importation mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003. The Task Force is interested in information related to whether and under what circumstances drug importation could be conducted safely, and what its likely consequences would be for the health, medical costs, and development of new medicines for American patients. The public docket closed June 1, 2004. A transcript from the April 14<sup>th</sup> meeting was included in the board packet.

Mr. Jones stated that the Enforcement Committee also discussed the legality of importation and the various legislative proposals that have been introduced at the federal and state level that would allow for the safe importation of prescription drugs from Canada. Although the board did not take a position on the California bills, it is tracking the status of these bills.

One bill, AB 1957 (Frommer) would require the Department of Health Services (DHS) to establish a California Rx program to provide information to consumers and health care providers about options for obtaining prescription drugs at affordable prices and would require the DHS to establish a Web site before July 1, 2005 to various drug benefit programs including Canadian pharmacies that meet certain standards. One of the standards is that the Canadian pharmacy meets the requirements of a nonresident pharmacy.

Another bill, SB 1149(Ortiz) would require the Board of Pharmacy to establish an interactive Internet Web site to identify licensed Canadian pharmacies that meet specified criteria for the safe acquisition, shipment, handling, and dispensing of prescription drugs to persons in California. One of the standards is that the Canadian pharmacy meets the requirements for licensure by the board.

Recently Senator Ortiz invited representatives from the Board of Pharmacy to participate in a fact-finding trip to meet with Canadian officials. The plan was for a delegation of legislators and administration representatives to travel to Canada in July to learn more about the Canadian prescription drug system. They would meet with key government and industry officials involved in the drug manufacturing, distribution and dispensing systems in Canada.

The board declined the invitation because such a trip would require an individual trip request approval that takes months to obtain because the request must be reviewed and approved by the Department of Consumer Affairs, State and Consumer Affairs Agency, the Department of Finance and the Governor's Office. Agency has advised the department that it will not begin this review process until the Governor signs the budget for 2004/05. Moreover, only those out-of-state/out-of-country trips that will be considered for approval are those trips that are mandated or are program-essential functions. Information sharing and fact-finding trips generally do not meet this requirement.

Mr. Tilley asked what the status of Canadian storefronts is in California.

Ms. Harris reported that the board has not taken any action against these storefronts. She added that the issue was discussed last year in a Closed Session meeting and should not be discussed in a public meeting.

Mr. Tilley expressed concern that this illegal activity continues.

Mr. Jones stated that several states have attempted to take a strong position on enforcement action against these storefronts without first getting support from their attorneys general and found that they had no enforcement capabilities at all.

Deputy Attorney General Joshua Room stated that among those in support of SB 1149 is the Attorney General's Office, indicating that the AG's Office is not likely to take action against the storefronts.

Mr. Tilley again expressed concern that someone should enforce the law.

Mr. Room stated that there is some question of uncertainty about whether the current law will remain the law at the national level.

The board discussed the issue of counterfeit drugs and how the drugs are difficult to detect from legitimate drugs.

Steve Gray, representing Kaiser Permanente, stated that there now appears to be a market for empty pharmaceutical containers. He encouraged the board to have discussions with the medical industry, and suggested that staff contact Marv Sheppard from the University of Texas Pharmacy School, who specializes in counterfeiting issues.

Bruce Young, representing the California Retailers Association, stated that the board and the state should be cautious about facilitating consumer's ability to illegally buy medicine from outside the country. He added that there are ramifications about the financial exposure to the state if patients are injured.

Mr. Young stated that it is the CRA's belief that importation of drugs if authorized should come through a pharmacy where someone is more likely to spot a potential counterfeit drug. He added that the real problem and the culprit are manufacturers who price drugs for sale outside of America at lower prices.

Mr. Ratcliff stated that it is difficult for any pharmacist to identify counterfeit drugs given the sophistication of today's counterfeiters. Moreover, when the board learns about counterfeit drugs being discarded, the board has difficulty in identifying the pharmacies where the counterfeit drugs have been found because neither the pharmacist nor the drug manufacturer want to scare the public.

- **Disclosure of Citation and Fines to the Public**

Mr. Jones stated that at its last meeting, the Board of Pharmacy revised its disclosure policy. During the discussion, licensees expressed concern about the disclosure of administrative citations. Administrative citations are not considered discipline of a license. However, they do represent the resolution of an investigation or complaint that has been substantiated and as such, are disclosed to the public.

Mr. Jones stated that to address the concerns of licensees, the following language has been added to the citations to advise the licensee: "If a hearing is not requested to contest the citation(s), payment of fine(s) shall not constitute an admission of the violation(s) charged. Payment in full of the fine(s) assessed shall be represented as a satisfactory resolution of the matter in any public disclosure (Bus. & Prof. Code §§ 125.9, 4314; Cal. Code Reg., tit. 16, § 1775)."

For cases where no fine has been issued, the following statement will be provided:

"No fine has been assessed with this citation and no proof of abatement has been ordered. If no hearing is requested to contest the citation, the right to contest the citation has been waived. If no hearing is requested to contest the citation, the right to contest the citation has been waived. If the citation is not contested, the citation shall be represented as a satisfactory

resolution of the matter in any public disclosure (Bus. & Prof. Code §§ 125.9, 4314; Ca. Code Regs., tit. 16, § 1775).”

For disclosure to the public, the following language will be provided:

The issuance of a letter of admonishment and/or a citation by the Board of Pharmacy is considered an administrative action and substantiated resolution of a complaint and/or investigation. The final administrative action including payment of a fine does not constitute an admission of the violation(s) charged and is considered satisfactory resolution of the matter. (Bus. & Prof. Code §§ 125.9, 4314; Cal. Code Regs., tit. 16§ 1775).”

- **Evaluation of Implementation of the Quality Assurance Program**

Mr. Jones stated that the National Association of Boards of Pharmacy (NABP) Foundation funded a study on medication errors in California. The purpose of the study was to chart the profession’s implementation of the Board of Pharmacy’s new regulation on quality assurance. The original intent of the study was to prospectively assess, through a board inspector questionnaire, which components of the quality assurance (QA) program were the most difficult for pharmacy to implement, over time. However, after the evaluation was implemented, additional limitations were imposed that caused a re-evaluation of the original objectives. The objectives were changed to the following: identify and compile deficiency data and citation/fine data for the new QA regulation, identify the board inspectors’ subjective interpretation of pharmacy’s compliance with various aspects of the regulation and identify and compile data on types of medication errors through a review of the board’s citation and fine data.

The conclusion of the evaluation found that the Board of Pharmacy and its inspectors have fully embraced the concept of quality assurance in an effort to protect consumers through analysis of medication errors. This was supported subjectively through the interview process and objectively through the number and frequency of correction orders (deficiencies) and citations/fines issued by the board during the review period.

The evaluation also compiled a list of medication errors by type in an effort to further medication error prevention. These errors types are similar to those reported by national patient safety programs. It was noted that further analysis would be necessary to determine if the implementation of quality assurance requirements actually impacts medication errors encountered by consumers.

The information regarding medication errors evaluated from the citation/fine data reports will be reported in the next board newsletter.

- **Retired Status of a Physician License**

The Medical Board of California advised that starting July 1, 2004, a physician who is in retired status would no longer be eligible to practice medicine. While the physician will be exempt from paying a renewal fee and continuing education requirements, a retired physician will no longer be allowed to engage in the practice of medicine. The practice of medicine, of course, includes prescribing.

- **Implementation of SB 151 – Changes to the Prescribing and Dispensing of Controlled Substances**

Mr. Jones stated that this bill repeals the triplicate prescription requirement for Schedule II controlled substance prescriptions and replaces it with a tamper-resistant prescription form that may be obtained from approved printers. Eleven printers have been approved. The Enforcement Committee discussed the implementation of SB 151 and the many questions that the board has received. A list of questions and answers on changes in the law were reviewed and will be added to the board's Web site.

- **Update on SB 1307 Regarding Wholesalers**

Mr. Jones stated that the Board of Pharmacy is sponsoring SB 1307 to strengthen the regulation of wholesalers by enacting comprehensive changes in the wholesale distribution system for prescription drugs. The Enforcement Committee recommended to the board that it sponsor this legislation after discussing the issue for at least two years. The language was carefully developed to directly address issues found during investigations of wholesalers in California. The bill contains the following major elements:

- Requires the development of a "pedigree" that tracks each drug through the distribution system beginning January 1, 2007, although the board may extend the implementation date for wholesalers to 2008 and pharmacies until 2009.
- Requires all out-of-state wholesalers shipping drugs into California to become licensed (This provision was placed in AB 2862, a companion bill containing similar provisions for nonresident wholesalers).
- Increases the board's ability to fine for more serious violations related to wholesaling.
- Requires wholesalers to post a \$100,000 bond to secure administrative fines and penalties
- Restricts wholesale transactions by pharmacies.
- Requires that drugs be purchased only from licensed entities
- Authorizes the board to embargo drugs when the board suspects or finds drugs that are adulterated or counterfeit.

A segment from "60 Minutes" that was broadcast in December 2002 was played for the board. The board originally viewed this tape in January 2003. This segment provides a good overview as to why the board is sponsoring SB 1307.

## **LICENSING COMMITTEE**

President Goldenberg welcomed new members to the committee: Ruth Conroy (Chair), Richard Benson and Clarence Hiura.

- **Introductions**

Dr. Schell introduced Dr. Jennifer Rasmussen and Dr. Jennigrace Bautisle, new licensees and residents at Kaiser Permanente in San Diego, who were in attendance at the meeting.

- **Report on the Meeting of June 9, 2004**

President Goldenberg reported that Dr. Conroy would report on the Licensing Committee Meeting of June 9.

Dr. Hiura welcomed Dr. Conroy as the new chair of the committee and thanked Patricia Harris and Virginia Herold for their support during his tenure as chair of the Licensing Committee.

- **Request from the Pharmacy Foundation of California**

Dr. Conroy stated that the California Pharmacists Association requested that the Board of Pharmacy consider amendments to the CE statute and regulations. One reason for this request was that in January 2004, the activities of the Accreditation Evaluation Service (AES) moved from the California Pharmacist Association (CPhA) to the CPhA Education Foundation. The following changes were requested:

1. Change the term “continuing pharmaceutical education” to “continuing pharmacy education”
2. Change AES from a “continuing education provider and coursework review component of the California Pharmacists Association” to “the accreditation agency for providers continuing pharmacy education in California”
3. Change the role of AES and ACPE from “approvers” to “accreditors”
4. Change the reference from AES to the CPhA Educational Foundation
5. Change the language from “organization” to “accreditation agency”
6. Change the review/audit requirement to a minimum of once a year from 10 percent
7. Change the term “certificates of completion” to “statements of credit”
8. Require the provider to furnish the “statement of credit” to participants who complete the requirements for course completion
9. Require that the material be current in order for it to be considered valid CE
10. Change continuing professional pharmaceutical education to continuing professional pharmacy education

The statutory modification to Business and Professions Code section 4232 will be sought in the next omnibus bill.

MOTION: Licensing Committee: That the Board of Pharmacy amend the continuing education statute and regulations as requested by the Pharmacy Foundation of California.

SUPPORT: 9 OPPOSE: 0

- **Report on the Implementation of North American Pharmacy Licensure Examination (NAPLEX) and California Pharmacy Jurisprudence Examination (CPJE)**

Dr. Conroy reported that the transition to the NABLEX and CPJE has been completed with the recent licensure of 248 pharmacists. Since January 1, 2004, (when the statute took effect), the board has processed 1,792 applications and 1,507 candidates have been determined eligible to take the examinations. As of the beginning of July, 654 candidates have taken the CPJE.

The transition to this new examination format has been challenging and staff will continue to work to streamline this new labor-intensive process. While the board has not been without its critics, tremendous efforts by staff to implement the program timely should not go unnoticed. This was a major change in program operations and this new change was done without additional staff. In fact, the board had lost staff in its licensing and enforcement programs. Moreover, the board was ready to implement the CPJE in December; however, contracts were not in place for the CPJE and NAPLEX until March. There was further delay when by mid-May only 266 candidates (out of the 1,000 eligible candidates) had taken the CPJE. This delayed the release of the CPJE results because 400 candidates were needed to take the examination in order to validate the questions.

Ms. Harris referred to the Competency Committee report provided in the board packet for the pass/fail information and other statistical data for both the NAPLEX and CPJE examinations.

Meanwhile, the licensing unit has experienced a substantial increase in telephone, faxed and in-person inquiries regarding the examination process. Many candidates are confused and want to be walked through the application process. Staff has been working hard to ensure timely processing and licensure of pharmacist applicants. Every effort is being made to assist applicants to the extent that the board can without impacting the application process. The application process for licensure examination has been updated and is on the board's Web site.

Mr. Tilley asked Dr. Rasmussen and Dr. Baritsle and other new licensees in the audience to describe their exam experience to the board.

Comments were varied and included that the most stressful part was the new application process, and that no one was available to provide verbal instructions or status checks. Also for identification at the test site for CPJE applicants there was much confusion about exact name matching.

Additional comments included: testing sites varied in computer equipment and overall effectiveness as a testing site. Security was an issue because candidates could leave the room during the examination to go to the bathroom.

Dr. Fong asked the group if they felt the test was fair.

Comments included: The NAPLEX was not fair; the NAPLEX was not similar to the course work studied in school; the NAPLEX was not disease-based but rather random with mostly calculations, and the school's curriculum do not have compounding classes. The students added that the turn-around time for application processing was very fast and efficient and it was a nice surprise to receive a telephone call from the board stating that an item was missing from their application packet.

Mr. Tilley thanked the group for their input.

Dr. Fong commended Ms. Harris, Ms. Herold and staff for a very diligent and focused job on the new exam process and for their responsive approach to applicants.

Mr. Jones stated that the board has three members on the NABP test committee and that will have an impact on the way the exam reflects California standards.

- **Implementation of the Statewide Protocol for Pharmacists to Furnish Emergency Contraception**

Dr. Conroy reported SB 490 (Chapter 651, Statutes of 2003) permits pharmacists to furnish emergency contraception medication based on a statewide protocol adopted by the California State Board of Pharmacy and the Medical Board of California. The Medical Board of California approved the statewide protocol for pharmacists to furnish emergency contraception and the protocol is available on the board's Web site.

Bruce Young, representing the California Retailers Association, suggested that the protocol be provided to pharmacy owners and the associations that represent them.

- **Pharmacy Manpower Statistics**

Dr. Conroy referred the board to the manpower statistics for California provided in the board packet.



Dr. Conroy stated that as of December 2003, 5,624 pharmacies were licensed with the board. This is a 6.3 percent increase from January 2001.

As of December 2003, 37,756 pharmacy technicians were registered. This is a 41 percent increase from December 2001, where there were 26,706 registered pharmacy technicians.

In 2003, there were 24,256 licensed pharmacists with California addresses. This is a 16 percent increase from 2001, where 20,905 pharmacists were licensed.

- **Report on the Implementation of the Licensure and Inspection Program for Pharmacies that Compound Injectable Sterile Drug Products – One Year Evaluation**

Dr. Conroy stated that Supervising Inspector Dennis Ming presented to the Licensing Committee an overview and evaluation on the successful implementation of the sterile compounding licensing program. The program was implemented in July 2003, as the result of legislation.

Dr. Ming stated that when the board implemented the Sterile Compounding Licensing Program in July 2003, the board inspected pharmacies that intended to compound sterile injectable drugs. He added that the board now has one year of experience in working with these pharmacies and the inspection process.

Dr. Ming explained that in order for pharmacies to ship compounded sterile injectables to California they must first be licensed as a non-resident pharmacy. A compounding application is not required if the facility is licensed as a hospital, home health agency or skilled nursing facility and possesses current accreditation from the Joint Commission on Accreditation of Healthcare Organizations, the Accreditation Commission on Healthcare or the Community Health Accreditation Program.

Dr. Ming reported that the board has received 249 applications for compounding pharmacies and has licensed approximately 190 pharmacies.

Dr. Ming stated that since the statute requires the board to inspect pharmacies once a year before renewal, the board began re-inspections in April 2004 of pharmacies that were previously issued a Sterile Compounding License and needed to renew their licenses. Re-inspections are assigned to inspectors who conducted the initial inspection.

Dr. Ming stated that the board held an in-service training session for all inspectors at the June 2004 Enforcement Team Meeting with the objective to review inspections of compounding pharmacies.

Dr. Ming stated that the inspector staff are focused on the equipment used in compounding pharmacies and how this equipment is maintained. He added that if an error occurs, it would start with the equipment. Inspectors are working with these pharmacies to ensure they understand the importance of well-maintained equipment. Dr. Ming stated that out of

approximately 50 re-inspections, the board has not issued any cease and desist orders and no pharmacy was found to jeopardize patients. However, inspectors have issued corrections or advisements.

Dr. Ming stated that this process has raised the bar on standards for pharmacies that compound sterile injectable drugs in California.

Dr. Ming added that an article would be written for *The Script* to help licensees understand the process and to better assist them in maintaining compliance over time and to standardize records.

Dr. Conroy announced that the next Licensing/Compounding Meeting is scheduled for September 22, 2004, in Oakland, California. She directed the board to meeting minutes from the June 9 Licensing Committee meeting and the Workgroup on Compounding meeting.

## **LEGISLATION AND REGULATION COMMITTEE**

President Goldenberg welcomed new members to the committee: John Jones (Chair), Ken Schell, and James Acevedo.

### **Regulation Report and Action**

- **Adoption of CCR, Title 16, Sec. 1746 – Statewide Protocol for Dispensing Emergency Contraception Products**

Ms. Zinder stated that this regulation would codify the statewide protocol for pharmacists dispensing emergency contraception. The protocol itself has previously been approved by the board and the Medical Board of California.

MOTION: Legislation and Regulation Committee: The Board of Pharmacy adopt CCR, title 16, sec. 1746 – Statewide Protocol for Dispensing Emergency Contraception Products

SUPPORT: 9 OPPOSE: 0

Ms. Zinder stated that the board would now compile the rulemaking file for submission to the Administration and the Office of Administrative Law for approval.

- **Adoption of Amendment to CCR, Title 16, Section 1751 et seq. – Sterile Compounding**

Ms. Zinder reported that the noticed changes remove provisions that were determined to be building standards and are not permitted to be adopted by the board. These provisions caused the Office of Administrative Law to disapprove the initial rulemaking. Instead the building

standards were removed from the regulation and inserted in SB 1913, the board's omnibus bill. If the regulation changes are approved by the board, the file will be resubmitted to the Office of Administrative Law and staff anticipates approval of the rulemaking file at that time.

MOTION:                      Legislation and Regulation Committee: The Board of Pharmacy adopt changes to Section 1751 et seq. of Title 16 of the California Code of Regulations to remove provisions determined to be building standards.

SUPPORT:                      9                      OPPOSE:                      0

## **Regulation Update**

### **Board Approved and Undergoing Administrative Approval**

The board has adopted and compiled the rulemaking files and they are undergoing administrative review:

- **Section 1709.1 – Pharmacist-in-Charge at Two Locations**

Ms. Zinder stated that this regulation would permit a pharmacist to serve as pharmacist-in charge at two locations.

- **Section 1710 – Hospital Central Fill**

Ms. Zinder stated that this regulation would permit central refill operations for hospitals.

- **Section 1711 – Patient Notification**

This regulation will clarify patient notification requirements in the event there is a medication error.

- **Section 1717.1 – Common Electronic Files**

This regulation will require pharmacies using common electronic files to adopt policies ensuring patient confidentiality.

- **Section 1717.4 – Authentication of Prescriptions**

This regulation will require pharmacists to ensure the authenticity of prescriptions.

- **Section 1720 – Pharmacist License Process**

This regulation will require qualified individuals to pay the pharmacist licensing fee in a shorter time frame and require applicants to take the licensure examinations within one year of applying to take the exams.

- **Section 1721 – Pharmacist Exam**

This regulation will clarify and increase the penalties for cheating on the pharmacist licensure examinations.

- **Section 1724 – Passing Score**

This regulation establishes the methodology of determining the passing score on the pharmacist licensure examination to comply with changes made by Senate Bill 361 (Figueroa, Chapter 539, Statutes of 2003).

- **Sections 1749 and 1793 et seq. – Pharmacy Technicians**

This regulation conforms and clarifies regulations relating to pharmacy technicians to reflect changes made by Senate Bill 361 (Figueroa, Chapter 539, Statutes of 2003).

- **Section 1793.3 – “Clerk-Typist” Ratio**

This regulation will eliminate the clerk/typist ratio in community pharmacies.

#### **Awaiting Notice**

- **Section 1715 – Pharmacy Self Assessment**

This regulation will update the pharmacy self-assessment form to reflect recent changes in pharmacy law. An informal hearing is required.

#### **Legislation Report and Action**

#### **Board-Sponsored Legislation**

- **AB 1960 (Pavley) – Pharmacy Benefit Manager**

Ms. Zinder stated that this bill requiring the board to regulate contract terms and disclosures by PBMs was recently amended to move away from California pharmacy law provisions as requested by the board in its previous position. The bill no longer requires the board to enforce its provisions.

MOTION: Legislation and Regulation Committee: That the Board of Pharmacy change its position on Assembly Bill 1960 (Pavley) from oppose unless amended to no position.

SUPPORT: 9 OPPOSE: 0

- **AB 746 (Matthews) – Drug Marketing**

Ms. Zinder stated that a previous version of this bill required the board to revoke a license after a second conviction for Medi-Cal fraud. This bill was recently amended to delete the prior version of the bill and add new provisions that do not directly impact the board.

MOTION: Legislation and Regulation Committee: That the Board of Pharmacy change its previous motion of support to no position on Assembly Bill 746 (Matthews).

SUPPORT: 9 OPPOSE: 0

#### **Status Update for Bills with Board Position**

- **AB 320 (Correa) – Gag Clauses**

Ms. Zinder stated that this bill prohibits “regulatory gag clauses” in malpractice settlements. The board has a support position on this bill. This bill is currently in the Senate Appropriations Committee.

- **AB 1826 (Bogh) – Fraudulent Use of a License**

Ms. Zinder stated that this bill adds the theft of professional license numbers to identity theft statutes. This bill failed passage in committee.

- **AB 2184 (Plescia) – Automated Dispensing Devices**

Ms. Zinder stated that this bill allows expanded use of automated dispensing machines in skilled nursing facilities. The board has a support position on this bill. This bill is currently on the Senate Floor.

- **AB 2660 (Leno) – Pharmacist DEA Registration**

Ms. Zinder stated that this bill allows pharmacists working under protocol to obtain DEA registration numbers, among other provisions. The board has a support position on this bill which is currently on the Senate Floor.

- **AB 2682 (Negrete McLeod) – Wholesalers**

Ms. Zinder stated that this bill requires all out-of-state distributors to be licensed by the board. Current law allows wholesalers shipping to another wholesaler in California to be exempt from being licensed as a California distributor; the bill requires all wholesalers in a distribution channel to be licensed unless the company is a manufacturer that distributes only its own products from licensed manufacturing premises. The board developed the language for this companion bill to SB 1307, and the board has a support position on this bill. The bill is in the Senate Appropriations Committee.

- **SB 1159 (Vasconcellos) – Hypodermic Needles**

Ms. Zinder stated that this bill repeals the prescription requirement for needles and syringes, and would allow pharmacists under specified conditions to sell 10 needles without a prescription. The board has a support position on this bill that is currently on the Assembly Floor.

- **SB 1427 (Ackerman) – Counterfeit Drugs**

Ms. Zinder stated that this bill would have imposed a felony for drug counterfeiting. The board has a support position on the bill. The bill failed in committee.

- **SB 1563 (Escutia) – 340B Drug Pricing**

Ms. Zinder stated that this bill would require wholesalers and manufacturers to extend 340B drug discounts to “safety net” providers. The board has an oppose unless amended position on the bill because the provisions are located in California Pharmacy Law, where they would become the board’s responsibility to enforce. This bill is in the Senate Appropriations Committee Suspense File.

- **SB 1735 (Figueroa) – Special Fund Agencies**

Ms. Zinder stated that this bill exempts Department of Consumer Affairs boards and bureaus from the state’s hiring freeze that ended June 30, 2004, and restores vacant positions recently eliminated over the last two years. The board has a support position on this bill and the bill is currently in the Senate Appropriations Committee Suspense File.

#### **Status Update for Bills without Board Position**

- **AB 1957 (Frommer et al) – Drug Importation**

Ms. Zinder stated that this bill requires the Department of Health Services Board to establish a Web site for approved Canadian pharmacies. This bill is currently in the Senate Appropriations Committee. The board has no position on this bill currently.

- **AB 2125 (Levine) – Prescription: Requisite Information**

This bill would have required prescribers and pharmacies to include the patient's diagnosis on the prescription unless instructed otherwise by the patient. This bill failed passage in committee.

- **SB 1149 (Ortiz) – Importation**

This bill requires the Board of Pharmacy to list Internet sites selling prescription drugs that have violated recognized standards for good practice. The board would also designate Canadian pharmacies that meet California's standards for pharmacy practice. The bill is currently in the Assembly Appropriations Committee. The board has no position on this bill currently.

Mr. Tilley expressed concern that importation is illegal. Since he was absent from the April Board Meeting, he asked why the board did not take a position on the bill.

Mr. Riches stated that during the April Board Meeting the board reached an impasse with either a clear majority for or against the bill. He added that the Legislature's bill analysis from June 22, identifies a number of changes. The most significant is to establish a process for Canadian pharmacies to apply to the board for approval and if approved to be placed on the board's Web site. The bill establishes a contracting process for these pharmacies to be placed on the board's Web site, and establishes a \$1,500 fee.

Mr. Riches stated that SB 1149 was amended to appropriate \$71,000 to the board in the 2004/05 budget year, which represents approximately half of the fiscal estimate that the board placed on the bill. Provisions in the bill also establish a special fund that would pay for all costs.

Bruce Young, representing the California Retailers Association, expressed concern about the board entering into a contract with a company to be listed on the board's Web site, that cannot legally import drugs into California,

Mr. Powers stated that many states are attempting to deal with this problem in many different ways. He added that pharmaceutical companies are responsible for the problem of the U.S. having the highest prices in the world for medication that is sold for substantially less elsewhere. But until the federal government acts to control pharmaceutical prices, states and local communities will continue to consider ways to deal with this issue.

Mr. Tilley encouraged the board to change its position on AB 1957 and SB 1149 to oppose.

Dr. Schell encouraged the board to remain with no position until more information is learned about how the federal government will act on pending legislation.

Dr. Fong stated that the board must first consider public protection and not communicate a message to the public that Canadian pharmacies are an exception to federal law that prohibits such importation of prescription drugs. He suggested a watch position on these bills.

Mr. Powers stated that the public will buy drugs from Canada or wherever possible in order to buy affordable drugs. These bills provide a limited way for consumers to gain some knowledge about the sites they are ordering drugs from. Other states have tried this and inspected the Canadian sites selling prescription drugs and found them to be safe with standards as good or better than those for pharmacies in the U.S.

Art Whitney suggested that the board consider its mission statement; the board's mission is to protect the public rather than to provide affordable health care.

Another comment made was that the board needs to consider the balance between the risk of getting medications from another country and an even greater risk of not taking the medication because it is not affordable.

Mr. Cronin, representing the California Pharmacists Association, encouraged the board to take an oppose position on these bills.

Mr. Riches stated that the bill contains a list of criteria that the Canadian pharmacy would have to meet to be eligible. The board would have latitude in judgment in assessing these individual pharmacies.

Mr. Tilley stated that it appears that the board is condoning this illegal activity. If the bill passes, Canadian pharmacies will be added to the board's Web site and the board would not have the ability to enforce the law on these pharmacies. Consequently, these pharmacies would not have to comply with the same rules as pharmacies in California do. He asked if these pharmacies would be inspected.

Mr. Riches explained that this would not be a licensing process and would not be subject to the enforcement functions the board normally takes. The federal government needs to act on this issue; the state lacks the authority.

MOTION: That the Board of Pharmacy oppose AB 1957 (Frommer et al) and SB 1149 (Ortiz)

M/S/C: TILLEY/FONG

SUPPORT: 6      OPPOSE: 2



- **SB 1307 (Figueroa) – Wholesalers and manufacturers of dangerous drugs and devices**

Ms. Zinder stated that this bill is sponsored by the Board of Pharmacy to improve the licensing of wholesalers and the safety of wholesale transactions. The bill is currently awaiting a hearing before the Assembly Appropriations Committee. Recent amendments have been made to address a range of issues raised by interested parties. Among the most notable are:

1. Deleting provisions establishing a separate designation for “closed door pharmacies.”
2. Permitting per occurrence fines for specified violations in pharmacies primarily serving long term care patients.
3. Shifting provisions relating to non-resident wholesalers to Assembly Bill 2682 (Negrete McLeod).
4. Permitting the board to delay implementation of the electronic pedigree in pharmacies to January 1, 2009.
5. Clarifying provisions requiring wholesalers to track furnishing to long-term care pharmacies.
6. Modifying the board requirement for wholesalers to accommodate small and start-up wholesalers.

Bruce Young, representing the California Retailers Association (CRA), thanked President Goldenberg for addressing the issue at a recent CRA Chamber Meeting. Mr. Young stated that the biggest objection is that no electronic tracking system exists. He suggested that the board convene a task force and review the FDA report from its 2003 nationwide task force.

Mr. Riches stated that this bill is currently in the Senate Appropriations Committee. He added that the board has worked extensively on this bill and made many changes.

President Goldenberg stated that the goal is to create a forum for the stakeholders, the public and board members to work this out prior to the legislative process. Moreover the 2009 implementation date for pharmacies to track pedigrees will assure that the technology is readily available at a low cost.

Collette Galvez, representing the Center for Public Interest Law, cautioned that the board’s number one priority is public protection. She stated that the board’s earlier discussions today focus on the need to embrace technology and regulating Canadian pharmacies. When there are convening priorities, the number one priority is public protection.

Mr. Jones referred to a recent drug scare involving counterfeit Viagra that could have been avoided if pharmacies could have tracked a lot number.

- **SB 1913 (Figueroa et al) – Professions**

Ms. Zinder stated that this bill contains numerous provisions sponsored by the board to make technical and non-controversial changes to pharmacy law. She highlighted several provisions.

Mr. Cronin stated that this bill allows certified nurse midwives, nurse practitioners and physician assistants to order drugs from a wholesaler and he asked where this provision originated.

Mr. Riches responded that the amendment came through Senator Figueroa's office from the Nurse Practitioners Association and Physician Assistants Association.

### **NEW BUSINESS/AGENDA ITEMS FOR FUTURE MEETINGS**

John Cronin, representing California Pharmacists Association, suggested that the board's citation and fine funds be used solely for educational purposes for licensees. He added that he heard that the cite and fine funds are being used as a means to collect revenue instead of raising fees.

Joshua Room, DAG, explained that the money is not accessible to the board and the board would need specific Department of Finance authority in order to spend it.

Ms. Harris stated that at the same time that the cite and fine regulation went into effect the board lost \$6 million to the General Fund. The board also spent \$2 million more than it had for its operational budget last year. She added that the citation and fine program was not an attempt to deal with budget shortfalls but instead used to augment inspections.

Mr. Room stated that if the board's reserve falls below a certain level then the board must raise fees but if the reserve exceeds a certain level, then the board must reduce fees.

Mr. Cronin requested that the Enforcement Committee reevaluate the need for spending money on educational efforts for pharmacists.

Ms. Harris stated that the board's core function is licensing and enforcement, including, resolving consumer complaints timely. However, the board also acknowledges the importance of educating licensees. The board has developed a significant licensee education effort over the last year. Additional discussion should be placed with the Communication and Public Education Committee.

Also, various cite and fine scenarios will be placed in future newsletters as educational items for pharmacists.

### **CLOSED SESSION**

The board held two petition hearings to consider early termination of probation for Herman Leo Kramer and Robert Stephen Olsen.

The board moved into Closed Session pursuant to Government Code Section 11126, sub. (a) regarding personnel matters to perform the evaluation of the Executive Officer.

The board moved into Closed Session pursuant to Government Code Section 11126, sub. (c)(3) to deliberate upon disciplinary cases.

**Thursday, July 22, 2004**

**CLOSED SESSION**

The board moved into Closed Session pursuant to Government Code Section 11126, sub. (c)(3) to deliberate upon the petitions for reinstatement.

**ADJOURNMENT**

There being no further business, President Goldenberg adjourned the meeting at 12:30 p.m.